

#L-1040

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Fifth Supplement to Memorandum 86-19

Subject: Study L-1040 - Estate and Trust Code (Public Administrators
--letter from State Bar Executive Committee)

Attached to this supplementary memorandum is a copy of a letter received from the Executive Committee of the State Bar Estate Planning, Trust and Probate Law Section relating to the statute governing public administrators.

Respectfully submitted,

Nathaniel Sterling
Assistant Executive Secretary

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PROBATE LAW SECTION
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February 28, 1986

Nathaniel Sterling, Esq.
Assistant Executive Secretary
California Law Revision Commission
4000 Middlefield Road, Suite D-2
Palo Alto, California 94303

Dear Mr. Sterling:

Re: Memorandum 86-19: Public Administrator, Redrafted Statutes

On February 22, 1986 the Executive Committee of the Estate Planning, Trust and Probate Law Section reviewed Memorandum 86-19 involving a redraft of the statutory provisions applicable to Public Administrators. We generally approve the memorandum and make specific comments with regard to certain sections as set forth hereinafter:

1. §7620. Authority of Public Administrator: We suggest you add the following language which was omitted from the original section in your redraft: "...and of all estates ordered into his or her hands by the court."

This continues existing law and makes it clear that the Public Administrator must handle all estates ordered into his or her hands by the court.

2. §7642. General Rules Governing Administration of Estates Apply. We agree with staff, as opposed to the comments of Mr. Avery, that the Public Administrator may utilize independent administration in an estate.

3. §7680. Summary Disposition Authorized. We agree the Public Administrator should summarily be able to dispose of estates falling within the monetary amounts prescribed in Section 13100 (§630). We believe the San Francisco Public Administrator now agrees with us on this point. We continue to support the Commission's proposal to provide an affidavit procedure for real property up to \$10,000 gross value. Such authorization should be included in this section.

4. §7682. Payment of Demands. We believe, since there is no notice to Creditors under the article, that a liability provision for distributees should be put in the statute. We agree with staff that the liability provision in this section should be comparable to the liability provisions when there is a Section 630 affidavit distribution of property.

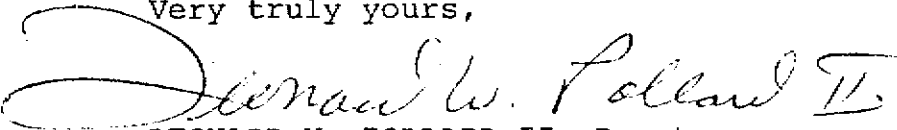
We do not believe an optional procedure to permit the Public Administrator to give notice to known creditors, and cut off their claims after four months, should be placed in the statute at this time. Rather, the Public Administrator provisions regarding notice to known creditors should follow the regular administration provisions, which are being revised.

5. §7685. Commission of Public Administrator. This section sets forth the minimum commission for the Public Administrator at two hundred fifty dollars (\$250). In your note, you indicate the State Bar advisors have proposed increasing the minimum compensation to \$350. You further note that staff believes this is a political question which the Commission should not get involved with. The Executive Committee considered raising the minimum commission to three hundred fifty dollars (\$350) in the context of the overall revision of the chapter involving the Public Administrator. Increasing the minimum commission question may be considered political in nature, however, we believe increasing the minimum compensation is effectively a "trade-off" to increase the compensation of the Public Administrator who, under our proposed addition to Section 7620, must accept any estates which the court orders into the Public Administrator's hands.

The above information reflects the position of the Executive Committee with regard to your Memorandum 86-19, this position goes beyond the proposals of the Section advisors to you, and reflects the position of the Section itself. We have enjoyed working with you in revising these

statutes. In the event you have any questions regarding this matter, do not hesitate to contact the undersigned at (619) 236-3651.

Very truly yours,



LEONARD W. POLLARD II, Deputy

LWP:ns

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