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Memorandum 89-85

Subject: Study L-828 - TOD Designation for Vehicles and Vessels

Attached is a staff draft of a proposal drawn from Missouri law to permit registration and title to state-registered vehicles and vessels to designate a beneficiary to receive title at death of the owner

California law permits transfer by affidavit of title to state-registered vehicles and vessels at death of the owner. Health & Safety Code § 18102; Veh. Code §§ 5910, 9916. The affidavit may be used by the person entitled to the vehicle or vessel under the owner's will, or, if a near relative, by intestate succession. The attached TOD proposal has the advantage of allowing the owner to designate the beneficiary without a will, and, in case of intestacy, without limiting beneficiaries to near relatives of the owner.

The attached proposal is consistent with the TOD designation allowed for accounts in financial institutions under the California Multiple-Party Accounts Law. Prob. Code § 5302. It is also consistent with the TOD designation permitted in employment contracts, bonds, promissory notes, and the like. *Id.* § 160.

The attached proposal permits designation of multiple beneficiaries, consistent with the California Multiple-Party Accounts Law. Although Missouri only permits designation of one beneficiary, this is "because of capacity constraints in the present registration system. If there is demand for multiple beneficiary designations and the computerized record keeping system is expanded to accommodate additional names, the [Missouri] law may be amended to authorize such." Report of Missouri Subcommittee on Nonprobate Transfers. There appears to be no reason to limit California law so only one beneficiary may be designated.

Respectfully submitted,

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Staff Draft

TOD DESIGNATION FOR STATE-REGISTERED
VEHICLES AND VESSELS

Health & Safety Code § 18080.2 (added). Ownership of manufactured home, mobilehome, commercial coach, truck camper, or floating home in beneficiary form

SEC. _____. Section 18080.2 is added to the Health and Safety Code, to read:

18080.2. (a) Ownership registration and title to a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration may be held in beneficiary form that includes a direction to transfer ownership of the manufactured home, mobilehome, commercial coach, truck camper, or floating home to one or more designated beneficiaries on death of the sole owner or last surviving coowner. A certificate of title issued in beneficiary form shall include, after the name of the owner or names of the coowners, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary or beneficiaries.

(b) During the lifetime of a sole owner or of any coowner, the signature or consent of a beneficiary is not required for any transaction relating to the manufactured home, mobilehome, commercial coach, truck camper, or floating home for which a certificate of ownership in beneficiary form has been issued.

Comment. Section 18080.2 is new and is drawn from Missouri law. See Mo. Ann. Stat. § 301.681 (Vernon Supp. 1989). The language of Section 18080.2 is conformed to the usage in this article. See, e.g., Health & Safety Code § 18080.

Unlike Missouri law, Section 18080.2 permits designation of multiple beneficiaries, consistent with the POD designation permitted in favor of multiple beneficiaries under the California Multiple-Party Accounts Law. See Prob. Code § 5302.

See also Health & Safety Code § 18102.2; Veh. Code §§ 4150.7, 5910.5, 9852.7, 9916.5.

Health & Safety Code § 18102.2 (added). Transfer of manufactured home, mobilehome, commercial coach, truck camper, or floating home owned in beneficiary form

SEC. _____. Section 18102.2 is added to the Health and Safety Code, to read:

18102.2. (a) On death of a sole owner or the last surviving coowner of a manufactured home, mobilehome, commercial coach, truck camper, or floating home owned in beneficiary form, the manufactured home, mobilehome, commercial coach, truck camper, or floating home belongs to the surviving beneficiary or beneficiaries, if any. If there is no surviving beneficiary, the manufactured home, mobilehome, commercial coach, truck camper, or floating home belongs to the estate of the deceased owner or of the last coowner to die.

(b) A certificate of title in beneficiary form may be revoked or the beneficiary changed at any time before the death of a sole owner or of the last surviving coowner by either of the following methods:

(1) By sale of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, with proper assignment and delivery of the certificate of title to another person.

(2) By application for a new certificate of title without designation of a beneficiary or with the designation of a different beneficiary or beneficiaries.

(c) Except as provided in subdivision (b), designation of a beneficiary in a certificate of title issued in beneficiary form may not be changed or revoked by will, by any other instrument, by a change of circumstances, or otherwise.

(d) The beneficiary's interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home at death of the owner or last surviving coowner is subject to any contract of sale, assignment, or security interest to which the owner or coowners were subject during their lifetimes.

(e) The surviving beneficiary or beneficiaries may secure a transfer of ownership for the manufactured home, mobilehome, commercial coach, truck camper, or floating home upon presenting to the department all of the following:

(1) The appropriate certificate of title and registration card, if available.

(2) A certificate under penalty of perjury stating the date and place of the decedent's death and that the declarant is entitled to the manufactured home, mobilehome, commercial coach, truck camper, or floating home as the designated beneficiary.

(3) If required by the department, a certificate of the death of the decedent.

(f) A transfer at death pursuant to this section is effective by reason of this section, and shall not be deemed to be a testamentary disposition of property. The right of the designated beneficiary to the manufactured home, mobilehome, commercial coach, truck camper, or floating home shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(g) If there is no surviving beneficiary or coowner, the person or persons described in Section 18102 may secure transfer of the manufactured home, mobilehome, commercial coach, truck camper, or floating home as provided in that section.

(h) The department may prescribe forms for use pursuant to this section.

Comment. Section 18102.2 is new. Subdivisions (a) through (d) are drawn from Missouri law. See Mo. Ann. Stat. § 301.681 (Vernon Supp. 1989). Subdivision (e) is drawn from Health and Safety Code Section 18102(b) and Vehicle Code Sections 5910(b) and 9916(b). Subdivision (f) is drawn from Probate Code Section 5304. Subdivision (h) is drawn from Vehicle Code Section 5910(c). See also Health & Safety Code § 18080.2; Veh. Code §§ 4150.7, 5910.5, 9852.7, 9916.5.

Vehicle Code § 4150.7 (added). Ownership of vehicle in beneficiary form

SEC. _____. Section 4150.7 is added to the Vehicle Code, to read:

4150.7. (a) Ownership of title to a vehicle subject to registration may be held in beneficiary form that includes a direction to transfer ownership of the vehicle to one or more designated beneficiaries on death of the sole owner or last surviving coowner. A certificate of ownership issued in beneficiary form shall include, after the name of the owner or names of the coowners, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary or beneficiaries.

(b) During the lifetime of a sole owner or of any coowner, the signature or consent of a beneficiary is not required for any transaction relating to the vehicle for which a certificate of ownership in beneficiary form has been issued.

Comment. Section 4150.7 is new and is drawn from Missouri law. See Mo. Ann. Stat. § 301.681 (Vernon Supp. 1989). See also Health & Safety Code §§ 18080.2, 18102.2; Veh. Code §§ 5910.5, 9852.7, 9916.5.

Unlike Missouri law, Section 4150.7 permits designation of multiple beneficiaries, consistent with the POD designation permitted in favor of multiple beneficiaries under the California Multiple-Party Accounts Law. See Prob. Code § 5302.

Vehicle Code § 5910.5 (added). Transfer of vehicle owned in beneficiary form

SEC. _____. Section 5910.5 is added to the Vehicle Code, to read:

5910.5. (a) On death of a sole owner or the last surviving coowner of a vehicle owned in beneficiary form, the vehicle belongs to the surviving beneficiary or beneficiaries, if any. If there is no surviving beneficiary, the vehicle belongs to the estate of the deceased owner or of the last coowner to die.

(b) A certificate of ownership in beneficiary form may be revoked or the beneficiary changed at any time before the death of a sole owner or of the last surviving coowner by either of the following methods:

(1) By sale of the vehicle with proper assignment and delivery of the certificate of ownership to another person.

(2) By application for a new certificate of ownership without designation of a beneficiary or with the designation of a different beneficiary or beneficiaries.

(c) Except as provided in subdivision (b), designation of a beneficiary in a certificate of ownership issued in beneficiary form may not be changed or revoked by will, by any other instrument, by a change of circumstances, or otherwise.

(d) The beneficiary's interest in the vehicle at death of the owner or last surviving coowner is subject to any contract of sale, assignment, or security interest to which the owner or coowners were subject during their lifetimes.

(e) The surviving beneficiary or beneficiaries may secure a transfer of ownership for the vehicle upon presenting to the department

all of the following:

(1) The appropriate certificate of ownership and registration card, if available.

(2) A certificate under penalty of perjury stating the date and place of the decedent's death and that the declarant is entitled to the vehicle as the designated beneficiary.

(3) If required by the department, a certificate of the death of the decedent.

(f) A transfer at death pursuant to this section is effective by reason of this section, and shall not be deemed to be a testamentary disposition of property. The right of the designated beneficiary to the vehicle shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(g) If there is no surviving beneficiary or coowner, the person or persons described in Section 5910 may secure transfer of the vehicle as provided in that section.

(h) The department may prescribe forms for use pursuant to this section.

Comment. Section 5910.5 is new. Subdivisions (a) through (d) are drawn from Missouri law. See Mo. Ann. Stat. § 301.681 (Vernon Supp. 1989). Subdivision (e) is drawn from Health and Safety Code Section 18102(b) and Vehicle Code Sections 5910(b) and 9916(b). Subdivision (f) is drawn from Probate Code Section 5304. Subdivision (h) is drawn from Vehicle Code Section 5910(c). See also Health & Safety Code §§ 18080.2, 18102.2; Veh. Code §§ 4150.7, 9852.7, 9916.5.

Unlike Missouri law, Section 5910.5 permits designation of multiple beneficiaries, consistent with the POD designation permitted in favor of multiple beneficiaries under the California Multiple-Party Accounts Law. See Prob. Code § 5302.

Vehicle Code § 9852.7 (added). Ownership of vessel in beneficiary form

SEC. _____. Section 9852.7 is added to the Vehicle Code, to read:

9852.7. (a) Ownership of an undocumented vessel subject to registration may be held in beneficiary form that includes a direction to transfer ownership of the vehicle to one or more designated beneficiaries on death of the sole owner or last surviving coowner. A certificate of ownership issued in beneficiary form shall include,

after the name of the owner or names of the coowners, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary or beneficiaries.

(b) During the lifetime of a sole owner or of any coowner, the signature or consent of a beneficiary is not required for any transaction relating to the vehicle for which a certificate of ownership in beneficiary form has been issued.

Comment. Section 9852.7 is new and is drawn from Missouri law. See Mo. Ann. Stat. § 301.681 (Vernon Supp. 1989). See also Health & Safety Code §§ 18080.2, 18102.2; Veh. Code §§ 4150.7, 5910.5, 9916.5.

Unlike Missouri law, Section 9852.7 permits designation of multiple beneficiaries, consistent with the POD designation permitted in favor of multiple beneficiaries under the California Multiple-Party Accounts Law. See Prob. Code § 5302.

Vehicle Code § 9916.5 (added). Transfer of vessel owned in beneficiary form

SEC. _____. Section 9916.5 is added to the Vehicle Code, to read:

9916.5. (a) On death of a sole owner or the last surviving coowner of a vessel numbered under this division and owned in beneficiary form, the vessel belongs to the surviving beneficiary or beneficiaries, if any. If there is no surviving beneficiary, the vessel belongs to the estate of the deceased owner or of the last coowner to die.

(b) A certificate of ownership in beneficiary form may be revoked or the beneficiary changed at any time before the death of a sole owner or of the last surviving coowner by either of the following methods:

(1) By sale of the vessel with proper assignment and delivery of the certificate of ownership to another person.

(2) By application for a new certificate of ownership without designation of a beneficiary or with the designation of a different beneficiary or beneficiaries.

(c) Except as provided in subdivision (b), designation of a beneficiary in a certificate of ownership issued in beneficiary form may not be changed or revoked by will, by any other instrument, by a change of circumstances, or otherwise.

(d) The beneficiary's interest in the vessel at death of the owner or last surviving coowner is subject to any contract of sale,

assignment, or security interest to which the owner or coowners were subject during their lifetimes.

(e) The surviving beneficiary or beneficiaries may secure a transfer of ownership for the vessel upon presenting to the department all of the following:

(1) The appropriate certificate of ownership and certificate of number, if available.

(2) A certificate under penalty of perjury stating the date and place of the decedent's death and that the declarant is entitled to the vessel as the designated beneficiary.

(3) If required by the department, a certificate of the death of the decedent.

(f) A transfer at death pursuant to this section is effective by reason of this section, and shall not be deemed to be a testamentary disposition of property. The right of the designated beneficiary to the vessel shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(g) If there is no surviving beneficiary or coowner, the person or persons described in Section 9916 may secure transfer of the vessel as provided in that section.

(h) The department may prescribe forms for use pursuant to this section.

Comment. Section 9916.5 is new. Subdivisions (a) through (d) are drawn from Missouri law. See Mo. Ann. Stat. § 301.681 (Vernon Supp. 1989). Subdivision (e) is drawn from Health and Safety Code Section 18102(b) and Vehicle Code Sections 5910(b) and 9916(b). Subdivision (f) is drawn from Probate Code Section 5304. Subdivision (h) is drawn from Vehicle Code Section 5910(c). See also Health & Safety Code §§ 18080.2, 18102.2; Veh. Code §§ 4150.7, 5910.5, 9852.7, 9916.5.