

First Supplement to Memorandum 89-71

Subject: Study L-1025 - Notice to Creditors (Draft of Bill for 1990--
additional conforming change)

The staff has discovered an additional conforming change that should be made to the notice to creditors recommendation:

Probate Code § 7664 (amended). Liability for decedent's unsecured debts

SEC. 5. Section 7664 of the Probate Code is amended to read:

7664. A person to whom property is distributed under this article is personally liable for the unsecured debts of the decedent. Such a debt may be enforced against the person in the same manner as it could have been enforced against the decedent if the decedent had not died. ~~In~~ Subject to Section 353 of the Code of Civil Procedure, in an action based on the debt, the person may assert any defenses available to the decedent if the decedent had not died. The aggregate personal liability of a person under this section shall not exceed the fair market value of the property distributed, valued as of the date of the distribution, less the amount of any liens and encumbrances on the property on that date.

Comment. Section 7664 is amended for consistency with the general one-year limitation period for commencement of an action on a cause of action against a decedent under Code of Civil Procedure Section 353.

Respectfully submitted,

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