

## Memorandum 90-114

Subject: 1990 Legislative Program

This memorandum contains a list of the recommendations the Commission submitted to the 1990 Legislature and the legislative action with respect to each recommendation. Each of the recommendations not enacted is discussed in a separate memorandum (noted below) prepared for the September 1990 meeting.

The list assumes that the Governor will sign Senate Bills 1775, 1777, and 2649. See Exhibit 1 attached for the status of each Commission recommended bill according to the latest information available at the time this memorandum was prepared.

1. **Compensation of Attorneys and Personal Representatives**, 20 Cal. L. Revision Comm'n Reports 31 (1990). Enacted in part (compensation of personal representatives). 1990 Cal. Stat. ch. 79. See **First Supplement to Memorandum 90-114**.
2. **Notice to Creditors**, 20 Cal. L. Revision Comm'n Reports 165 (1990); 20 Cal. L. Revision Comm'n Reports 507 (1990). Enacted in part. 1989 Cal. Stat. ch. 544. Remainder enacted. 1990 Cal. Stat. ch. 140.
3. **Trustees' Fees**, 20 Cal. L. Revision Comm'n Reports 279 (1990). Enacted. 1990 Cal. Stat. ch. 79. (An amendment to a Financial Code section was not enacted in 1990 but will be proposed by the staff for enactment in 1991.)
4. **Springing Powers of Attorney**, 20 Cal. L. Revision Comm'n Reports 405 (1990). Enacted. 1990 Cal. Stat. ch. [SB 1777].
5. **Uniform Statutory Form Powers of Attorney Act**, 20 Cal. L. Revision Comm'n Reports 415 (1990). Enacted. 1990 Cal. Stat. ch. [SB 1777].
6. **Disposition of Small Estate by Public Administrator**, 20 Cal. L. Revision Comm'n Reports 529 (1990). Enacted. 1990 Cal. Stat. ch. 324.
7. **Court-Authorized Medical Treatment**, 20 Cal. L. Revision Comm'n Reports 537 (1990). Enacted. 1990 Cal. Stat. ch. [SB 1775].
8. **Survival Requirement for Beneficiary of Statutory Will**, 20 Cal. L. Revision Comm'n Reports 549 (1990). Enacted. 1990 Cal. Stat. ch. [SB 1775].

9. **Execution or Modification of Lease Without Court Order**, 20 Cal. L. Revision Comm'n Reports 557 (1990). Enacted. 1990 Cal. Stat. ch. [SB 1775].
10. **Limitation Period for Action Against Surety in Guardianship or Conservatorship Proceeding**, 20 Cal. L. Revision Comm'n Reports 565 (1990). Enacted. 1990 Cal. Stat. ch. [SB 1775].
11. **Repeal of Probate Code Section 6402.5 (In-Law Inheritance)**, 20 Cal. L. Revision Comm'n Reports 571 (1990). Not enacted. See **Second Supplement to Memorandum 90-114**.
12. **Access to Decedent's Safe Deposit Box**, 20 Cal. L. Revision Comm'n Reports 597 (1990). Not enacted. See **Memorandum 90-118**.
13. **Priority of Conservator or Guardian for Appointment as Administrator**, 20 Cal. L. Revision Comm'n Reports 607 (1990). Enacted. 1990 Cal. Stat. ch. [SB 1775].
14. **New Probate Code**, 20 Cal. L. Revision Comm'n Reports 1001 (1990). Enacted. 1990 Cal. Stat. ch. 79.
15. **Notice in Probate Where Address Unknown**, 20 Cal. L. Revision Comm'n Reports 2145 (1990), to be published in Annual Report (December 1990). Enacted. 1990 Cal. Stat. ch. [SB 1775].
16. **Jurisdiction of Superior Court in Trust Matters**, 20 Cal. L. Revision Comm'n Reports 2153 (1990), to be published in Annual Report (December 1990). Enacted. 1990 Cal. Stat. ch. [SB 1775].
17. **Uniform Management of Institutional Funds Act**, 20 Cal. L. Revision Comm'n Reports 2165 (1990), to be published in Annual Report (December 1990). Enacted. 1990 Cal. Stat. ch. [SB 2649].

Respectfully submitted,

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Executive Secretary

1990 LEGISLATIVE PROGRAM

Measures Introduced at Request of Law Revision Commission

Enacted1990 Stats. Ch. 79 - Assembly Bill 759 (Friedman) New Probate Code

As enacted, new probate code becomes operative only if AB 831 (probate attorney fees) is enacted. AB 831 is dead. Senate Bill 1775 has been amended to make the new code become operative on July 1, 1991, even though Assembly Bill 831 is dead, and to insert in the new code the substance of existing law relating to probate attorney fees. CORRECTED CHAPTERED BILL PRINTED ON 4-12-90.

1990 Stats. Ch. 140 - Senate Bill 1855 (Beverly) Creditors of Decedent  
AMENDED ON APRIL 17, 1990.1990 Stats. Ch. 324 - Senate Bill 1774 (Lockyer) Urgency Probate Bill

Effectuates the Commission's Recommendation Relating to Disposition of Small Estate by Public Administrator and makes a technical correction relating to the operative date of a 1989 enactment. AMENDED ON MAY 29. OPERATIVE JULY 16, 1990.

1990 Stats. Res. Ch. 53 - SCR 76 (Lockyer) Resolution to Continue  
Authority to Study Previously Authorized TopicsConcurrence in Amendments Made by Second House PendingSenate Bill 1777 (Beverly) Uniform Statutory Powers of Attorney Bill

This bill effectuates two recommendations, one proposing the Uniform Statutory Powers of Attorney Act and the other relating to springing powers of attorney. Bill was amended to delete provision providing for attorney fees in action against person who unreasonably refuses to honor power of attorney. This amendment was necessary to eliminate opposition of California Bankers Association and California Land Title Association. AMENDED May 29, 1990.

Senate Bill 2649 (Morgan) Uniform Management of Institutional Funds Act  
AMENDED MAY 30, 1990.Senate Bill 1775 (Lockyer) Comprehensive Probate Bill

This bill would effectuate seven Commission recommendations:

- (1) *Survival Requirement for Beneficiary of Statutory Will.*
- (2) *Execution or Modification of Lease Without Court Order.*
- (3) *Limitation Period for Action Against Surety in Guardianship or Conservatorship Proceeding.*
- (4) *Court-Authorized Medical Treatment.*

- (5) *Priority of Conservator or Guardian for Appointment as Administrator.*
- (6) *Notice in Probate Where Address Unknown.*
- (7) *Jurisdiction of Superior Court in Trust Matters.*

Recommended provision relating to access to decedent's safe deposit box was deleted from bill and is to be given further study by the Commission. Bill amended to provide that the new Probate Code (AB 759) will become operative even though Assembly Bill 831 (compensation of estate attorney) is dead and to insert in the new Probate Code the substance of existing law relating to probate attorney fees. Bill also would make a number of technical cleanup revisions in new Probate Code. APPROVED BY ASSEMBLY JUDICIARY COMMITTEE ON AUGUST 8 WITH TECHNICAL AMENDMENTS.

#### Dead

#### Assembly Bill 831 (Harris) Trustees Fees and Attorney Fees

This bill would have effectuated the Commission recommendations concerning trustee fees and attorney fees. Trustee fees provisions are included in new Probate Code and will become operative if new Probate Code becomes operative as provided in SB 1775. Existing law on attorney fees added to new Probate Code by SB 1775. ASSEMBLY MEMBER HARRIS HAS DROPPED AB 831 AT THE REQUEST OF SENATOR LOCKYER.

#### Assembly Bill 2589 (Sher) In-law Inheritance

Amended on March 13 (technical amendment). Bill supported by California Association of Public Administrators, Public Guardians and Public Conservators. Bill opposed by various heir tracers (American Archives Association; Brandenberger & Davis; American Research Bureau; W.C. Cox & Company). State Bar has no position on the bill. DEFEATED BY 5-4 VOTE IN SENATE JUDICIARY COMMITTEE ON JUNE 19.