

First Supplement to Memorandum 2005-46

**Beneficiary Deeds
(Material Received at Meeting)**

The following material was received by the Commission at the meeting on November 18, 2005, in connection with Study L-3032 on beneficiary deeds, and is attached as an Exhibit:

Exhibit p.

- David L. Mandel, Senior Legal Hotline (11/5/05) (excluding attachments)1
- Shirley Ramirez, Laguna Woods (11/7/05).....2

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

Exhibit

From: David Mandel
Subject: TOD deeds
Date: November 5, 2005

To CLRC Estate Planning Section:

Thanks for the message, for the excellent statement about the issues to be studied and for inviting input. Here's mine.

Attached are:

1. A position statement I submitted to AB 12's author at his request last spring. It was circulated among a group of interested parties who met several times then. This is intended to reflect the perspective of the public we serve in the world of legal services for seniors.

2. A draft bill.

3. Two draft deeds for consideration as part of a statute.

Several issues that arose in the discussion group back then underlined some of the complexities that remain to be resolved in my mind. In particular, I would like to further study the relationship between the interest assumed by a beneficiary under a TOD deed and debts of the decedent grantor -- including those voluntarily secured by the real estate, those for which a judgment lien was recorded in connection with the property and unsecured debts that would be subject to claims if the property were to go through a probate process.

At this time, however, urgent matters keep me from devoting the time I would need to research these issues. And since I see that the subject is included in the list of questions that appears in your announcement, I will leave it to you and not delay submitting what I have already written on the matter.

Attached are originals in WordPerfect -- which you can use as a basis for future work if you wish -- and also PDF versions, particularly convenient if you can't open the WP originals. I'll also be happy to send hard copies, if you wish. Just let me know.

1 final comment: I strongly recommend use of the term "transfer on death" instead of "beneficiary" deeds. The latter term means many different things in different contexts, which the former is precise.

Thanks very much. I look forward to following your work and to further interactions as it proceeds.

David L. Mandel
Supervising Attorney
Senior Legal Hotline
Legal Services of Northern California
444 North 3rd Street, Suite 312
Sacramento, CA 95814
(916) 551-2145
Fax: (916) 551-2197
www.seniorlegalhotline.org

75 Calle Aragon "U"
Laguna Woods
California 92637

AB12 Beneficiary Deed.

I would like to see
the California Law Revision
Commission recommend
the Beneficiary Deed.

I don't have enough
to put into a Trust except
my home. I would have
to pay the lawyer over
\$1,500.00 to make a Trust
for my home only - to go
to my son. It would be
much better to have a
Beneficiary Deed instead.

Law Revision Commission
RECEIVED

NOV - 7 2005

File: _____

Thank you

Shirley Ramirez
949-951-2821