

Memorandum 84-3

Subject: Study L-810 - Probate Law and Procedure (Form for Advice of
Proposed Action Under Independent Administration of
Estates Act)

The Commission has asked the staff to draft a form for the advice of proposed action given under the Independent Administration of Estates Act. See Prob. Code § 591.3. A staff draft of such a form is attached to this Memorandum as Exhibit 1. The form was adapted from the form provided in the June 1983 Supplement to 1 California Decedent Estate Administration § 7.131, at 183-84. If the Commission approves the form, the staff will amend it into the bill containing the revisions to the Independent Administration of Estates Act.

Respectfully submitted,

Robert J. Murphy III
Staff Counsel

EXHIBIT 1

Probate Code § 591.45 (added). Form for advice of proposed action

SEC. ____ . Section 591.45 is added to the Probate Code, to read:

591.45. Until superseded by a form prepared by the Judicial Council, the advice of proposed action shall be in substantially the following form:

SUPERIOR COURT OF CALIFORNIA
COUNTY OF _____

Estate of _____

No. _____

ADVICE OF PROPOSED ACTION
(Probate Code Section 591.3)

_____,
(deceased)

You are hereby advised that:

1. The executor or administrator of the above-captioned estate is:

(Name)

(Street or post office box)

(City, state, ZIP)

2. The executor or administrator has been granted authority to administer the above-captioned estate without court supervision under the Independent Administration of Estates Act.

3. On or after _____, 19__, the following action will be taken by the executor or administrator:
[Describe proposed action in reasonably specific terms. If the proposed action involves the sale or exchange of real property or the granting of an option to purchase real property, state the material terms of the transaction, including, if applicable, the sale price.]

4. If you need additional information concerning the proposed action, you should call:

(Name)

(Telephone number)

5. Please indicate below whether you object or consent to the proposed action, and deliver or mail this form to the executor or administrator at the address indicated above. If you return this form to the executor or administrator with your objection indicated, the executor or administrator may take the proposed action only under court supervision which may cause expense to the estate and will cause delay. You also have the right under Section 591.5 of the Probate Code to apply to the above-entitled court for an order restraining the executor or administrator from taking the proposed action without court supervision. Failure to object now is a waiver of the right to object later.

Dated: _____

(Signature of executor or administrator)

(Signature of attorney for executor or administrator)

ACKNOWLEDGMENT OF RECEIPT OF ADVICE OF PROPOSED ACTION

I acknowledge that on _____, I received a copy of
(date)
the above Advice of Proposed Action.

Dated: _____
(Date this Acknowledgment is signed)

(Signature of person acknowledging receipt)

OBJECTION OR CONSENT TO PROPOSED ACTION

☐ I do not object to the proposed action.

☐ I object to the proposed action.

(Signature of person objecting or consenting)

Comment. Section 591.45 is added to provide a form for the Advice of Proposed Action required by Sections 591.3 and 591.4.