

Memorandum 84-84

Subject: Study L-658 - Distribution of Small Estate Without Administration

The attached letter from the Department of Housing and Community Development appears to state that the department would object to transfer of a mobilehome, manufactured home, or commercial coach without probate if the decedent's estate contains other property that requires probate. The revision proposed by the staff merely would permit a person to whom a mobilehome, manufactured home, or commercial coach is given by will to obtain a transfer of registration if the decedent does not leave other property requiring probate. The letter states that the department has interpreted the existing statute (which is unclear) to permit this. Hence, the revision would merely make clear the interpretation now being given to the existing statute by the department.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

OFFICE OF THE DIRECTOR

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SACRAMENTO, CALIFORNIA 95814-2774

(916) 445-4775



September 19, 1984

Mr. John H. DeMouilly
Executive Secretary
California Law Revision Commission
400 Middlefield Road, Room D-2
Palo Alto, CA 94306

Dear Mr. DeMouilly:

Thank you for your letter of August 23, 1984 outlining the California Law Revision Commission's suggested amendments to various code sections to permit transfer of title to property without conduct of probate proceedings.

Over the past several years, there has been a concerted effort through legislation and reorganization plans set forth by the Governor to treat mobilehomes, manufactured homes, and commercial coaches as housing, not as vehicles. Close parallels with conventional housing have been established in the areas of taxation, secondary financing, and by allowing these units to be legally affixed to foundation systems. This philosophy is bolstered by the fact that these units are no longer incidental items of personal property such as vehicles and vessels, but have values up to \$80,000-90,000 in some cases.

In keeping with this thrust, Section 18102 of the Health and Safety Code allows a transfer of ownership in the event no other property requiring probate was left by the decedent. When that section is applied, if there is a will bequeathing the unit to a specific heir, that heir is allowed to sign a certificate of transfer without probate. If there is no will, then the surviving heir or beneficiary, in the order identified in Section 630 of the Probate Code, is allowed to sign the certificate of transfer without probate. Conversely, if there is other property included in the estate that necessitates probate, then letters of testamentary or documents appointing an administrator of the estate are required and the person(s) named in those documents must sign for the estate to release the unit for transfer of ownership.

If we are interpreting your proposed amendments correctly, the intent is to allow the transfer of the decedent's ownership, by a beneficiary identified in a will or by an heir or beneficiary identified in Section 630 of the Probate Code, without the need to probate the decedent's estate. If this interpretation of the intent is correct, we do not concur with the proposed amendments.

Mr. John H. DeMouilly
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Our nonconcurrency is based on the effort described earlier to treat mobilehomes, manufactured homes, and commercial coaches as housing, and the fact that we are dealing with units that have an average value that greatly exceeds that of a motor vehicle or vessel. Given these elements, we believe that any amendments should be directed toward preserving the value of the estate rather than allowing an item of this value to be excluded, even when probate proceedings are required. We recommend that any efforts to amend the pertinent sections should be directed more in line with the treatment of conventional housing in this area.

Thank you for providing me the opportunity to respond to your proposal. If you have any questions regarding our position, please contact Ronald S. Javor, HCD's General Counsel at (916) 323-7288.

Sincerely,

A handwritten signature in cursive script, reading "Susan A. DeSantis". The signature is written in dark ink and is positioned above the printed name and title.

Susan A. DeSantis
Director

RL:df