

Memorandum 87-19

Subject: Study L-1041 - Amendments to AB 708 (Procedure)

Attached to this memorandum is a set of amendments relating to general procedural provisions. Amendments 1 and 2 conform AB 708 to decisions made at the February meeting concerning general procedural provisions.

Amendment 3 continues the exact language of Probate Code Section 1222 with regard to the duty to record. The changes relating to recording that were discussed at the February meeting, as well as the other changes in procedural provisions, will be prepared in the form of a draft recommendation for consideration at a meeting in the near future. It would be premature to attempt revising the recording provision in AB 708 (Section 1292) since there is not yet agreement on what it should provide. However, if agreement is reached, it would be possible to amend desirable changes into the bill. Otherwise, the procedural provisions discussed at the last meeting will be offered in the legislation that completes the revision of the Probate Code.

There are no policy issues presented by these amendments.

Respectfully submitted,

Stan G. Ulrich
Staff Counsel

AMENDMENTS TO AB 708 RELATING TO PROCEDURE

AMENDMENT 1

On page 45, line 16, strike out "by", strike out line 17, and insert:
as provided in Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

AMENDMENT 2

On page 46, line 17, strike out "making" and insert:
who has the duty to make

AMENDMENT 3

On page 47, strike out lines 23 to 40, inclusive, and insert:
1292. When an order is made setting apart a homestead, confirming a sale or making distribution of real property, or determining any other matter affecting the title to real property, a certified copy thereof must be recorded in the office of the county recorder of each county in which the land, or any part thereof, lies; and from the time of filing the same for record, notice is imparted to all persons of the contents thereof.