

#L-1025

ns37j
03/31/87

Memorandum 87-24

Subject: Study L-1025 - Amendments to AB 708 (Creditor Claims Against Decedent)

At the March meeting in San Francisco the Commission made a number of changes in the creditor claims portion of AB 708. The changes are set out in Exhibit 1 as amendments to the March 30 version of the bill for the Commission's review and approval.

Respectfully submitted,

Nathaniel Sterling
Assistant Executive Secretary

EXHIBIT 1

Amendment 1

On page 9, between lines 35 and 36, insert:

SEC. 22. Chapter 3 (commencing with Section 215) is added to Part 4 of Division 2 of the Probate Code, to read:

CHAPTER 3. REPORTING FACT OF DEATH

215. (a) If the decedent has received or may have received health care under the provisions of Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, a beneficiary or a person in possession of property of the decedent shall give the Director of Health Services notice of the decedent's death not later than 90 days after the date of death. The notice shall include a copy of the decedent's death certificate. The notice shall be given as provided in Section 1215, addressed to the director at the Sacramento office of the director.

Amendment 2

On page 9, line 36, strike out "SEC. 22" and insert:
SEC. 23

Amendment 3

On page 10, strike out lines 15 to 31, inclusive

Amendment 4

On page 13, line 20, before "a" insert:
is

Amendment 5

On page 23, line 37, strike out "with the clerk"

Amendment 6

On page 24, line 8, strike out "the prescribed period" and insert:
four months after the date letters are first issued to a general personal representative

Amendment 7

On page 24, line 15, strike out "the prescribed period" and insert:
four months after the date letters are first issued to a general
personal representative

Amendment 8

On page 24, line 22, strike out "said prescribed period" and
insert:
four months after the date letters are first issued to a general
personal representative

Amendment 9

On page 24, lines 28 and 29, strike out "the prescribed time for
claims" and insert:
four months after the date letters are first issued to a general
personal representative

Amendment 10

On page 25, line 18, strike out "executor or administrator" and
insert:
personal representative

Amendment 11

On page 25, lines 18 and 19, strike out "executor or
administrator" and insert:
personal representative

Amendment 12

On page 25, line 20, strike out "executor or administrator" and
insert:
personal representative

Amendment 13

On page 25, line 23, after "defended" insert:
by the personal representative

Amendment 14

On page 72, line 7, strike out "copies of"

Amendment 15

On page 72, line 8, strike out "both the court and" and insert:
the court and mail or deliver a copy to

Amendment 16

On page 73, lines 38 and 39, strike out "conduct by the creditor"
and insert:
creditor's conduct

Amendment 17

On page 73, line 39, strike out "this" and insert:
the

Amendment 18

On page 74, strike out lines 29 to 40, inclusive, and on page 75,
strike out line 1, and insert:

(b) A claim shall be filed with the court and a copy shall be
mailed to the personal representative. Failure to mail a copy to the
personal representative does not invalidate a properly filed claim, but
any loss that results from the failure shall be borne by the creditor.

Amendment 19

On page 75, strike out lines 15 to 17, inclusive, and insert:
the claim. An original voucher may be withdrawn after a copy is
provided, which shall be attached to the claim.

Amendment 20

On page 75, lines 36 and 37, strike out "both the court and the
personal representative." and insert:
the court and a copy mailed or delivered to the personal
representative. The claim form shall include a proof of giving notice,
which may be completed by the creditor.

Amendment 21

On page 78, line 26, strike out "(a)"

Amendment 22

On page 78, line 33, after "215" insert:
not later than 90 days after the date letters are first issued to a
general personal representative

Amendment 23

On page 78, line 34, strike out "(b) The" and insert:
The

Amendment 24

On page 78, strike out lines 36 to 40, inclusive, and insert:
9203. (a) Failure of a person to give the written notice or
request required by this chapter does not affect the

Amendment 25

On page 79, line 32, after "creditor" insert:
as provided in Section 1215

Amendment 26

On page 79, line 33, strike out ", as provided in Section 1215"

Amendment 27

On page 80, line 39, after "until" insert:
notice of

Amendment 28

On page 81, line 4, after "claim" insert:
in whole or in part

Amendment 29

On page 81, line 5, after "limitations" insert:
as to the part allowed or approved

Amendment 30

On page 81, line 36, strike out "the giving of" and insert:
giving

Amendment 31

On page 82, line 2, strike out "of giving"

Amendment 32

On page 82, line 3, after "rejection" insert:
is given

Amendment 33

On page 82, line 4, strike out "of giving"

Amendment 34

On page 82, line 5, after "rejection" insert:
is given

Amendment 35

On page 82, strike out lines 22 and 23 and insert:

(d) The prevailing party in the action shall be awarded court costs and, if the court determines that the prosecution or defense of the action against the prevailing party was unreasonable, the prevailing party shall be awarded reasonable

Amendment 36

On page 189, line 40, strike out "(d)" and insert:
(b)

Amendment 37

On page 190, line 38,, after "paid" insert:
, whether or not included in the order for payment,