

Memorandum 87-30

Subject: Study L-2005 - Amendments to AB 708 (Conforming Revisions and Miscellaneous Amendments)

This memorandum presents miscellaneous amendments to Assembly Bill 708 as amended on March 30. A copy of the bill as amended on March 30 is attached to Memorandum 87-22.

The amendments set out below are technical, primarily to correct typographical errors in Assembly Bill 708 as amended on March 30. No doubt we will discover other technical errors which we can correct by amending the bill in the Senate.

You should check the amendments set out below before the meeting. We do not plan to discuss them at the meeting unless someone wishes to discuss a particular amendment.

AMENDMENTS TO ASSEMBLY BILL 708
AS AMENDED IN ASSEMBLY MARCH 30, 1987

AMENDMENT

In line 9 of the title, after "6611," insert:
13101,

AMENDMENT

On page 25, line 35, strike out "shall" and insert:
shall

AMENDMENT

On page 45, line 37, after the first "the" insert:
court

AMENDMENT

On page 48, line 8, after "account," insert:
or other paper,

AMENDMENT

On page 78, line 20, before "com--" insert:

(

AMENDMENT

On page 78, line 23, strike out "Code" and insert:

Code)

AMENDMENT

On page 82, line 34, strike out "Laws" and insert:

Law

AMENDMENT

On page 90, line 31, strike out "and" and insert:

or

AMENDMENT

On page 93, line 3, strike out "to" and insert:

in

AMENDMENT

On page 100, line 15, strike out "representaive" and insert:

representative

AMENDMENT

On page 102, line 2, strike out "devisee" and insert:

decendent

AMENDMENT

On page 188, line 21, strike out "Funderal" and insert:

Funeral

AMENDMENT

On page 189, line 3, strike out "persoanl" and insert:

personal

AMENDMENT

On page 197, line 22, strike out "satisfy" and insert:
satisfy

AMENDMENT

On page 201, line 3, strike out "internal" and insert:
Internal

AMENDMENT

On page 201, line 24, strike out "comform" and insert:
conform

AMENDMENT

AMEND SECTION 13101

On page 192, between lines 33 and 34, insert:

SEC. 93.1. Section 13101 of the Probate Code is amended to read:

13101. (a) To collect money, receive tangible personal property, or have evidences of a debt, obligation, interest, right, security, or chose in action transferred under this chapter, an affidavit or a declaration under penalty of perjury under the laws of this state shall be furnished to the holder of the decedent's property stating all of the following:

- (1) The decedent's name.
- (2) The date and place of the decedent's death.
- (3) "At least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the decedent's death certificate attached to this affidavit or declaration."
- (4) "No proceeding is now being or has been conducted in California for administration of the decedent's estate."
- (5) "The gross value of the decedent's real and personal property in California, excluding the property described in Section 13050 of the California Probate Code, does not exceed sixty thousand dollars (\$60,000)."
- (6) A description of the property of the decedent that is to be paid, transferred, or delivered to the affiant or declarant.
- (7) The name of the successor of the decedent (as defined in Section 13006 of the California Probate Code) to the described property.
- (8) Either of the following, as appropriate:
 - (A) "The affiant or declarant is the successor of the decedent (as defined in Section 13006 of the California Probate Code) to the decedent's interest in the described property."
 - (B) "The affiant or declarant is authorized under Section 13051 of the California Probate Code to act on behalf of the successor of the decedent (as defined in Section 13006 of the California Probate Code) with respect to the decedent's interest in the described property."
- (9) "No other person has a right to the interest of the decedent in the described property."
- (10) "The affiant or declarant requests that the described property be paid, delivered, or transferred to the affiant or declarant."
- (11) "The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

(b) Where more than one person executes the affidavit or declaration under this section, the statements required by subdivision (a) shall be modified as appropriate to reflect that fact.

(c) If the person or persons executing the affidavit or declaration claim under the decedent's will, a copy of the will shall be attached to the affidavit or declaration.

~~(e)~~ (d) A certified copy of the decedent's death certificate shall be attached to the affidavit or declaration.

Note. This revision of Section 13101 were approved by the Commission at the March meeting.

The following Comment explains the amendment to Section 13101;

Comment Section 13101 is amended to require that a copy of the decedent's will be attached to the affidavit or declaration if the persons executing the affidavit or declaration claim under the decedent's will. This addition makes Section 13101 consistent with Sections 13152(c) (contents of petition for court order determining succession to real property) and 13200(d) (affidavit procedure for real property of small value).

Respectfully submitted,

John H. DeMouilly
Executive Secretary