

## Memorandum 96-7

**1996 Legislative Program: Initial Report**

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This memorandum summarizes the status of matters approved by the Commission to date for inclusion in the 1996 legislative program. These are listed in the attached chart. In addition to these matters, there are a few pending items the Commission conceivably could complete work on in the next month or two, in time to make it into the 1996 legislative program (such as repeal of the best evidence rule and applying marketable title procedures to obsolete restrictive covenants).

**Administrative Adjudication Followup**

These technical revisions have been amended into an existing two-year bill — SB 794 (Kopp). The bill is set for hearing in the Senate Governmental Organization Committee on January 16 and the Senate Insurance Committee on January 17. It must also clear the Senate Appropriations Committee by January 26 and the Senate Floor by January 31 in order to meet two-year bill deadlines.

**Homestead Exemption**

The proposal to repeal the declared homestead and improve the claimed homestead has been introduced as SB 1368 (Kopp). One major aspect of the proposal remains to be resolved. See Memorandum 96-2.

**Tolling Statute of Limitations**

The proposal to repeal Code of Civil Procedure Section 351, tolling statutes of limitation when the defendant is out of state, has not yet been introduced. The Senate Judiciary Committee is in the process of deciding whether it will have an omnibus civil practice bill this year, and if so, whether to include the Section 351 repeal. If not, we will consider other possible placement of the proposal.

**Repeal of Civil Code Section 1464**

The proposal to repeal Civil Code Section 1464, the First Rule in Spencer's Case, has not yet been introduced. The Senate Judiciary Committee is in the process of deciding whether it will have an omnibus real property bill this year,

and if so, whether to include the Section 1464 repeal. If not, we will consider other possible placement of the proposal.

#### **Collecting Small Estate Without Administration**

This proposal codifies and makes explicit the rule that the decedent's living trust assets are not included in the decedent's estate for purposes of determining whether the small estate alternatives to probate may be used. It is up for final Commission approval at the January Commission meeting. See Memorandum 96-6. The Senate Judiciary Committee plans to include the proposal in its omnibus probate bill (SB 392).

#### **Statute of Limitations in Trust Matters**

The proposal to make clear that the statute of limitations for an action against a trustee is three years rather than four years will not be included in the Senate Judiciary Committee's omnibus probate bill because a letter from Judge Gold of the California Judges Association indicates the proposal is possibly controversial. This matter is discussed in the First Supplement to Memorandum 96-7. We had not previously heard from Judge Gold or CJA on this matter. The Executive Secretary has written to Judge Gold suggesting better communications.

#### **Inheritance Involving Out of Wedlock Child**

The proposal to make eliminate special rules of inheritance for half-siblings of a person born out of wedlock will not be included in the Senate Judiciary Committee's omnibus probate bill because a letter from Judge Gold of the California Judges Association indicates the proposal is possibly controversial. This matter is discussed in the Second Supplement to Memorandum 96-7. We had not previously heard from Judge Gold or CJA on this matter. The Executive Secretary has written to Judge Gold suggesting better communications.

#### **Continuing Authority to Study Topics**

The annual resolution to continue the Commission's authority to study previously-assigned topics is introduced as SCR 43 (Kopp). This year's resolution adds the study of contract law to matters on the Commission's agenda.

Respectfully submitted,

Nathaniel Sterling  
Executive Secretary

**STATUS OF 1996 COMMISSION LEGISLATIVE PROGRAM**  
(as of January 9, 1996)

SB 392 (Sen. Judic. Comm.): Probate Omnibus Bill (collecting small estate without administration) SB 794 (Kopp): Administrative Adjudication Followup SB 1368 (Kopp): Homestead Exemption SCR 43 (Kopp): Continuing Authority to Study Topics (adds study of contract law)	Repeal of Civil Code 1464 Tolling Statute of Limitations Statute of Limitations in Trust Matters Inheritance Involving Out of Wedlock Child
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Bill Status	SB 392	SB 794	SB 1368	SCR 43	CC 1464	S/L	Inherit
Introduced	1995	1995	Jan 3	Jan 3			
Last Amended	[Jan 9]	Jan 4					
First House	Policy Committee	[Jan 16]					
	Fiscal Committee	—	—				
	Passed House						
Second House	Policy Committee						
	Fiscal Committee	—	—				
	Passed House						
Concurrence							
Governor	Received			—			
	Approved			—			
Chapered by Secretary of State	Date						
	Chapter #						

• Unless otherwise noted, all dates are in 1996 [date]: scheduled —: not applicable