

Memorandum 2005-46

Beneficiary Deeds (Scope of Study)

This memorandum initiates the Law Revision Commission’s study of whether California law should authorize a beneficiary deed. A beneficiary deed transfers real property to a beneficiary on the death of the property owner without probate. The study is directed by AB 12 (DeVore), enacted as 2005 Cal. Stat. ch. 422.

Attached to this memorandum as an Exhibit, and referenced in the memorandum, are the following materials:

	<i>Exhibit p.</i>
• AB 12 (DeVore), 2005 Cal. Stat. ch. 422	1
• <i>Bill Would Simplify Transfer of Real Property</i> , SF Daily Journal (5/26/05)	2
• Susan Szabo, Laguna Woods (6/27/05)	3
• Mary Stone, Laguna Woods (8/16/05)	4
• Marion Cahill, Laguna Woods (9/30/05)	5
• Margaret Weaver, Laguna Hills (6/27/05)	6
• P. Pye, Laguna Woods (10/20/05)	7
• Carla Gach, Laguna Woods (10/22/05)	8
• Fanny Labin, Laguna Woods (10/22/05)	9
• Barbara Clannin, Escondido (10/24/05)	10
• Dorothy Crown, Laguna Woods (10/24/05)	11
• Denis Gainsley, Laguna Woods (10/24/05)	12
• Betty Klahs, Laguna Woods (10/25/05)	13
• Edythe Jaffe, Laguna Woods (10/27/05)	14
• Stanley & Dorothy Mathiesen, Laguna Woods (10/27/05)	15
• Helen Morgan, Laguna Woods (10/27/05)	16
• Maurice & Virginia Dahn, Laguna Hills (10/28/05)	17
• Jeannette Jones, Laguna Woods (11/2/05)	18

AB 12 (DEVORE)

AB 12 (DeVore), enacted as 2005 Cal. Stat. ch. 422, directs the Law Revision Commission to conduct a study to determine whether legislation establishing a beneficiary deed should be enacted in California. If the Commission concludes that legislation to establish a beneficiary deed should be enacted, the

Commission should also recommend the content of the proposed statute. The Commission's report on this matter is due to the Legislature on or before January 1, 2007. A copy of the measure is attached at Exhibit p. 1.

"Beneficiary deed" is the term used in other jurisdictions that have adopted the concept that an owner of real property may deed the property to a named beneficiary, the transfer to become operative on the owner's death. The effect of the deed is to pass the property directly to the beneficiary without probate on the death of the owner. The deed may also be referred to as a TOD deed (an apt acronym, standing for Transfer On Death).

The measure began life as proposed legislation to establish a beneficiary deed in California. Due to concerns expressed by a number of interested organizations, including the California Judges Association, the California Land Title Association, and the Trusts & Estates Section of the California Bar Association, the measure was converted to a study of the matter by the Law Revision Commission. For a description of the political dynamics, see the newspaper article attached at Exhibit p. 3.

Technically speaking AB 12 does not become effective or operative until January 1, 2006. Nonetheless, the staff believes we can commence work immediately under our general authority to study whether the California Probate Code should be revised. See 2003 Cal. Res. ch. 92; see also SCR 15 (Morrow) (2005-06 Reg. Sess.)

LAW REVISION COMMISSION BACKGROUND

This issue is not completely new to the Commission. The Commission has extensive background in the probate and nonprobate systems for passage of property. In addition to its work in recodifying the entire Probate Code in the 1980's, the Commission is responsible for many of the California statutes that currently authorize a nonprobate transfer of property on death, including:

- The general nonprobate transfer statute. Prob. Code § 5000.
- The multiple party accounts law. Prob. Code § 5100.
- The TOD security registration act. Prob. Code § 5500.
- The TOD motor vehicle registration act. Veh. Code § 4150.7.
- The trust law. Prob. Code § 15000.
- Key statutes governing joint tenancy and community property. See, e.g., Civ. Code § 683.2.

In 1989, when Missouri adopted the nation's first statute authorizing a beneficiary deed, the Commission staff took an initial look at the concept. The Missouri statute was developed by Leo Eickhoff and the Missouri Bar Association, who were leaders in the field then. We decided not to pursue the matter at that time due to concern about potential title problems and because it was clear that the probate establishment would create roadblocks to its enactment.

OTHER JURISDICTIONS

AB 12 directs the Commission, in conducting its study, to review the statutes in other states that establish a beneficiary deed as a means of conveying real property through a nonprobate transfer. 2005 Cal. Stat. ch. 422 § 1(a).

At least eight jurisdictions now authorize a beneficiary deed. They are:

- Arizona: Ariz. Rev. Stat. § 33-405 (2001)
- Arkansas: Ark. Code Ann. §18-12-608 (2005)
- Colorado: Colo. Rev. Stat. § 15-15-401 (2004)
- Kansas: Kan. Stat. Ann. § 59-3501 (1997)
- Missouri: Mo. Rev. Stat. § 461.025 (1989)
- Nevada: Nev. Rev. Stat. § 111.109.1 (2005)
- New Mexico: N.M. Stat. Ann. § 45-6-401 (2001)
- Ohio: Ohio Rev. Code Ann. § 5302.22 (2000)

Some of these statutes have been in place a sufficient length of time that we will be able to glean useful experience from them. The statutes will also provide helpful models, should the Commission decide to recommend enactment of a beneficiary deed regime in California.

As it also happens, the Joint Editorial Board for Uniform Trusts and Estates Acts is meeting in mid-November to consider the possibility of drafting a Uniform Act on the subject. Unfortunately, our statutory deadline does not allow us to wait for completion of a Uniform Act, even if the National Conference of Commissioners on Uniform State Laws decides to pursue the matter. It is possible that we could get some help from NCCUSL's work, but the timing is such that the opposite is more likely to be true.

ISSUES

AB 12 identifies specific issues the Commission should address in the study. These are:

(1) [**Alternatives; recordation.**] Whether and when a beneficiary deed would be the most appropriate nonprobate transfer mechanism to use, if a beneficiary deed should be recorded or held by the grantor or grantee until the time of death, and, if not recorded, whether a potential for fraud is created.

(2) [**Transferor's rights.**] What effect the recordation of a beneficiary deed would have on the transferor's property rights after recordation.

(3) [**Resolution of disputes.**] How a transferor may exert his or her property rights in the event of a dispute with the beneficiary.

(4) [**Revocation.**] Whether it would be more difficult for a person who has transferred a potential interest in the property by beneficiary deed to change his or her mind than if the property were devised by will to the transferee or transferred through a trust or other instrument.

(5) [**Taxation.**] The tax implications of a beneficiary deed for the transferor, the transferee, and the general public as a result of the nonprobate transfer, including whether the property would be reassessed and if tax burdens would shift or decrease.

2005 Cal. Stat. ch. 422(b).

There are other issues that also should be addressed. They include:

(6) **Capacity.** Is the capacity necessary to execute a beneficiary deed the same as the capacity necessary to enter into a real estate transaction, or the lower capacity necessary to make a will or a donative transfer?

(7) **Fraud and undue influence.** What would protect an owner against fraud or undue influence in the execution of a beneficiary deed, and what would be the forum for a challenge based on fraud or undue influence?

(8) **Creditors.** What are the rights of the owner's creditors against property transferred by beneficiary deed, and how are the rights exercised?

(9) **Family protections.** Can family protections otherwise available in probate, such as the probate homestead and the family allowance, be asserted against property transferred by beneficiary deed, and if so how?

(10) **Omitted spouse or child.** Should the spouse of a marriage that occurs after execution of a beneficiary deed, or a child born after execution of the deed, have any rights against the property as they would in the case of a testamentary instrument?

(11) **Dissolution of marriage.** Should dissolution of marriage revoke a beneficiary deed to the former spouse, as it does a will?

(12) **Anti-lapse.** What rules apply where the beneficiary predeceases the owner?

(13) **Effect of other instruments.** Does a subsequent conveyance of the same property by the owner to another person trump a beneficiary deed? Does a devise of the same property by the owner to another person trump a beneficiary deed?

(14) **Battle of survivorship rights.** Does a beneficiary deed take priority over survivorship rights associated with property held in joint tenancy form or as community property?

(15) **Property interest conveyed.** What type of property interest can be conveyed by a beneficiary deed — reversionary interest? mineral rights? leasehold? cotenancy? interest in a cooperative or other form of CID ownership?

(16) **Encumbrances.** What is the effect of the transfer on an encumbrance, including a security interest?

(17) **Proof of death.** Since the transfer only becomes effective on the death of the owner, how is the fact of death proved, and to whom? Will a simple affidavit procedure be adequate for a title insurer?

(18) **Proper court.** What is the venue for resolving questions of interpretation or rights of parties — the county where the property is located, the county where the owner resides, or the county where the beneficiary resides?

(19) **Statute of limitations.** What statute of limitations would be applicable to a challenge to a beneficiary deed?

(20) **Disclaimer.** What is the effect of the beneficiary's disclaimer of any interest under the deed?

(21) **Bona fide purchaser.** Does a bona fide purchaser of property from a person who has received the property by beneficiary deed take free of claims against the property? Can a purchaser of property transferred by beneficiary deed ever be a bona fide purchaser by definition?

(22) **Statutory form.** Should there be a statutory form for a beneficiary deed, and if so would that encourage uninformed use of the beneficiary deed?

(23) **Effect of existing law.** Would a beneficiary deed be effective to transfer property on death in California under existing law, absent any legislation on the matter at all?

Undoubtedly additional issues will surface as we review experience with this device in other jurisdictions. We need to make sure that we address all issues that persons concerned about AB 12 think are important. To this end, **the staff solicits input from interested persons** about issues they believe need to be addressed in this study. That includes banks, inheritance tax referees, and estate planners, as well as judges, probate lawyers, and title insurers. We have already received substantial input from individuals who believe authorization of a beneficiary deed would be beneficial. See “Comments of Interested Persons” below.

A beneficiary deed cannot be processed the same way other nonprobate transfers are processed. Other forms of nonprobate transfer typically involve a third party to effectuate the transfer or to issue new title — a bank, a transfer agent, a trustee. (In probate, of course, there would be a personal representative to transfer title, or a court to issue a decree of title.) To a significant extent the rights of a transferee under a beneficiary deed must depend on the mechanism of title insurance. The input of title insurers on this study will be critical if we are to make an adequate assessment of this device, and to make any draft of it workable.

COMMENTS OF INTERESTED PERSONS

We have received comments from a number of interested persons pointing out the advantages of a beneficiary deed and urging the Commission to make a favorable recommendation on this matter to the Legislature. See Exhibit pp. 3-18. Points typically made in these letters include:

- This is a very good idea.
- It is a straightforward, efficient, direct, private, and trouble-free way to transfer property to an heir.
- It avoids capital gains tax on transfer to a beneficiary.
- It avoids the cost of an attorney to prepare a will or trust.
- It avoids the cost and delay of a probate proceeding.
- This is a consumer-friendly device. Its low cost is important to a senior on a fixed income or a person of limited means who finds it difficult to pay for an attorney.
- The simplicity of a one page deed is preferable to the complexity of a multi-page trust document prepared by a lawyer that is difficult to understand.

- The opposition of probate attorneys to this device is self-serving; they stand to lose a source of income.
- If all of a person's other property passes outside probate through beneficiary designations, why should it be necessary to have a probate proceeding for this one item?
- Why should Californians be denied a device that is available to residents of other states?

Sample quotation:

We would like to voice our support for the adoption of beneficiary deeds as a private, timely, efficient means of transferring real property to one's heirs. We strongly support this approach as an *alternative* to using the state's cumbersome, inefficient probate process, and to the need to adopt an over-lawyered living trust for a simple estate to accomplish a private, nonprobate transfer.

Exhibit p. 17.

NEXT STEPS

Timing

Our report to the Legislature is due by January 1, 2007. If we are to comply with this deadline, we will need to circulate for public comment a tentative recommendation on the matter by summer of 2006. This will allow time for interested persons and organizations to review the proposal over the summer and submit comments, for us to review comments and make any necessary revisions during the fall, and for us to adopt a final recommendation in December. That is cutting it close; we will need to expedite printing of any recommendation adopted at the December 8, 2006, meeting in order to comply with the January 1, 2007, submission deadline.

We will need to give this study high priority to ensure that we adhere to that schedule.

We will also need to get interested persons and organizations involved early on. To that end, we have simultaneously with this memorandum issued a press release to alert the public to the inception of the study.

Method of Proceeding

AB 12 requires two decisions by the Commission — (1) whether a beneficiary deed should be authorized in California, and (2) if so, the content of proposed legislation to authorize it.

The staff does not believe the first decision can be made in isolation. We need to look at problems that would be involved in implementing a beneficiary deed and how those problems would be handled legislatively. After we have gone through the process of developing a satisfactory statute, we can then step back and take a look at whether the whole thing makes sense.

The staff would pursue a three-pronged approach. We would:

(1) Evaluate existing devices in California for transferring real property on death, and compare them with the advantages and disadvantages of the beneficiary deed. This will require standard staff legal work.

(2) Evaluate experience in other jurisdictions that authorize a beneficiary deed. This will involve reviewing the legal literature of the other jurisdictions, including cases under the beneficiary deed statute. It will also involve making an effort to get feedback from title insurers, attorneys, consumer groups, and others in those jurisdictions. This is something we are not adept at doing, but we will look for help on this from California interest groups.

(3) Address and resolve issues that have been raised concerning the beneficiary deed. To a significant extent, this will involve a comparison of the statutes of other jurisdictions to see how this has been handled. If it has not been handled, we will need to develop our own solutions. It is not necessarily an answer to say that if it has not been a problem there, it won't be a problem here. California has more people, property values are higher, and litigation may be a first resort for dispute resolution.

When we have completed this work we will be in a position to make an informed decision on the merits of the beneficiary deed.

Report to Judiciary Committees

We intend to use this memorandum, and any Commission decisions in connection with it, as the basis for a description of the scope of this study that we submit to the Assembly and Senate Judiciary Committees.

SCR 15 (Morrow) would require the Commission, when it commences a new study, to report on the scope of that study to the Chair and Vice Chair of each of the Judiciary Committees. SCR 15 has not yet been adopted (it is pending in

Assembly Appropriations Committee). Moreover, the measure relates only to a study undertaken by the Commission pursuant to its general authority; the measure does not address a study such as this that the Legislature has specifically directed. Nonetheless, the staff believes it is a good idea to keep those committees apprised of the Commission's work, regardless of whether or not the scope report is technically required.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

Exhibit

AB 12 (DEVORE), 2005 CAL. STAT. CH. 422

An act relating to nonprobate transfers.

The people of the State of California do enact as follows:

SECTION 1. (a) The California Law Revision Commission shall study the effect of California's nonprobate transfer provisions and shall study statutes in other states that establish beneficiary deeds as a means of conveying real property through nonprobate transfers. The objective of the study shall be to determine whether legislation establishing beneficiary deeds should be enacted in California. The commission shall report all of its findings to the Legislature on or before January 1, 2007. If the commission recommends that the Legislature adopt a statutory scheme establishing beneficiary deeds as a means of conveying real property, the commission shall recommend the content of the proposed statute.

(b) The commission shall address all of the following in the study described in subdivision (a):

(1) Whether and when a beneficiary deed would be the most appropriate nonprobate transfer mechanism to use, if a beneficiary deed should be recorded or held by the grantor or grantee until the time of death, and, if not recorded, whether a potential for fraud is created.

(2) What effect the recordation of a beneficiary deed would have on the transferor's property rights after recordation.

(3) How a transferor may exert his or her property rights in the event of a dispute with the beneficiary.

(4) Whether it would be more difficult for a person who has transferred a potential interest in the property by beneficiary deed to change his or her mind than if the property were devised by will to the transferee or transferred through a trust or other instrument.

(5) The tax implications of a beneficiary deed for the transferor, the transferee, and the general public as a result of the nonprobate transfer, including whether the property would be reassessed and if tax burdens would shift or decrease.

Bill Would Simplify Transfer of Real Property

By Tim Willert

Daily Journal Staff Writer

IRVINE — A bill designed to simplify the transfer of real property upon death by eliminating probate is unnecessary and confusing, and warrants further study, according to critics within the probate bar.

The trusts and estates section of the State Bar of California and the California Land Title Association initially opposed AB12, which has cleared one legislative hurdle and is awaiting action by the Assembly Appropriations Committee.

"This procedure has been authorized in California for [nearly] a hundred years," said Costa Mesa attorney James MacDonald, referring to a 1914 state Supreme Court case validating the use of such deeds. "It's not needed from a legislative standpoint to approve this."

The measure by Irvine Assemblyman Chuck DeVore calls for "beneficiary deeds" that transfer ownership directly to a designated heir.

DeVore and Mary Pat Toups, the 76-year-old Orange County attorney who pitched the idea for AB12, contend the bill would give homeowners, particularly senior citizens, more financial freedom and help prevent manipulation by underhanded relatives.

The elderly, Toups contends, often are persuaded to transfer their homes to their children, who then threaten to evict them so they can sell the property.

"That's elder abuse," she said. "That's why I went to Sacramento. Absolutely, AB12 would help this problem."

To secure the bill's approval by the Assembly Judiciary Committee earlier this month, DeVore agreed to amendments that call for a study of beneficiary deeds before a new law is considered.

The study, by the California Law Revision Commission, is expected to take a year.

"It's our belief that the bill as it currently stands will make sure that all the issues are fleshed out and dealt with so that people don't end up messing up title to their property," said Warren Sinsheimer, a San Luis Obispo attorney specializing in trust and estate planning who has written two letters in opposition to AB12 on behalf of the State Bar's trusts and estates section. "That's our biggest concern."

According to Sinsheimer and other members of the section's executive committee, AB12 would cause more harm than good by encouraging a proliferation of do-it-yourself deeds.

"More widespread use of such deeds as a substitute for disposing of property by typical estate-planning means such as a will or trust will lead to many problems for those who use the deeds and the persons they hope to benefit," Sinsheimer wrote in a letter to the State Bar dated March 24.

Attorney Silvio Reggiardo III, legislation chairman of the State Bar's trusts and estates section, said the concept has merit.

"The problem is as it was proposed we think there are a lot of things that can't be foreseen with a simple statute or form of deed," said Reggiardo of Downey Brand in Sacramento. "We don't want to be a roadblock, but we want something that works."

DeVore, meanwhile, believes the measure would give people more control of their financial assets by letting them make decisions that don't require costly attorney fees.

"For 90 percent of people for whom 90 percent of assets is their home, paying an attorney for a trust seems to be overkill," he said.

Sinsheimer, a former chairman of the State Bar's trusts and estates section who sits on the executive committee, doesn't see it that way.

"Attorneys make a lot more money fixing the messes that people create for themselves than we would ever make helping people do things right in the first place," he said.

MacDonald, of Balfour-MacDonald-Olmstead in Costa Mesa and a member of the State Bar's trusts and estates section, said the issue should be evaluated carefully and independently to avoid potential pitfalls by consumers.

Widespread attempts to go through probate on their own "had caused problems for people who were not carefully advised," he said.

"These things are not easy," MacDonald said. "We thought that the whole matter should just be looked at by the law revision commission."

Toups, an outspoken grandmother of five who has spent the bulk of her 30-year legal career assisting senior citizens with a wide range of problems, was not daunted by the study.

"We respect the commission and welcome their efforts," she said. "I thought it was a miracle that the State Bar did not manage to kill that bill when the Judiciary Committee met."

DeVore and Toups, who testified before the Judiciary Committee on May 3, said trust and estate attorneys acting on behalf of the State Bar are out to protect their financial interests, nothing more.

"The trust and probate lawyers tell me it's a bad idea because I think they are guarding their wallets, and I will not listen to them," Toups said.

But Sinsheimer, of Sinsheimer, Schiebelhut & Baggett in San Luis Obispo, said the opposite was true.

"I hope we haven't done anything to give them a basis for saying that, because that's not our motivation," he said. "If protecting turf was our motivation, we would have killed the bill before now. But instead, we said, 'Let's have the law revision commission study this.'"

Susan C. Szabo
89-E Calle Aragon
Laguna Woods, CA 92637
(949) 458-7989

Law Revision Commission
RECEIVED

APR 27 2015

File: _____

CALIFORNIA LAW REVISION COMMISSION
4000 Middlefield Road, Room D-1
Palo Alto, CA 94303-4739

Re: AB 12 BENEFICIARY DEEDS

Dear Commission,

I am writing in support of California's adoption of real estate owners' being able to have a REVOCABLE TRANSFER-ON-DEATH BENEFICIARY DEED, whereby when the homeowner dies, title to the real estate passes to the beneficiary or beneficiaries similaarly to how title passes in a Joint Tenancy Deed. No Probate is needed and there are no Capital Gains Taxes.

It should be revocable so that it can be updated because of numerous complications, due to life's changes.

Seven other states have such law, and others will no doubt have them in the future. California should be one of these.

LETS NOT GIVE PEOPLE ANOTHER REASON TO LEAVE OUR STATE FOR ANOTHER ONE.

Respectfully submitted,

Susan C. Szabo

From: "Mary Stone" <zmastone@fea.net>
Date: August 16, 2005 3:27:27 PM PDT
To: "Common Interest Developments" <bhebert@clrc.ca.gov>
Subject: AB 12 Devore - Non-probate Transfers
Reply-To: "Mary Stone" <zmastone@fea.net>

California needs a Revocable Transfer-on-Death Beneficiary Deed Law. Seven states presently have such a law.

I also want to make sure that if California adopts such a law, it would apply to housing cooperatives as well. My senior community, United Laguna Hills Mutual, has 6,323 co-op units.

Mary A. Stone
356 Avenida Castilla, Unit C
Laguna Woods, CA 92637
(949) 855-9707

5085 Ovalo
Laguna Woods, CA 92637
Sept. 30, '05

Calif. Law Revision Commission
4000 Middlefield Rd.
Room D-1
Palo Alto, CA

Law Revision Commission
RECEIVED

OCT - 3 2005

File: _____

Dear Commissioners:

I am writing to tell you that I think Assembly
Bill " AB 12 Beneficiary Deeds" is a very good ~~+~~
idea.

I strongly urge you to make recommendations to the
State Legislature to pass it.

We need a Revocable Transfer-on-Death Beneficiary
Deed for Californians.

Thank You

Marion G. Cahill
Marion G. Cahill

10/29 05

Commission of
Calif. Law Revision:-

To whom it may concern:-

My family wishes to inherit
my property with as little
problem as possible. And I
do not want to have the expense
and trouble of making out a
trust. I am on a very
limited income.

"A 'beneficiary deed' is
right up my ally. The
solution to a big headache!!

please help us.

Sincerely,

Margaret Weaver

Law Revision Commission
RECEIVED

OCT 27 2005

File: _____

Law Revision Commission
RECEIVED

OCT 24 2005

File: _____

Patricia Mary Re.
947 Avenida Carmel
UNIT. E.
Laguna Woods.
Ca. 92637.
6d: 2012 2005.

4000 Middlefield Rd.
Room D-1, Palo Alto.
Ca 94303-4739.

To the Commission - re Beneficiary Deeds.
We entreat you to approve AB12 - enabling
us to deed our property directly to my - our -
heirs without expense of trust deeds or
probate.

Thank you!

Patricia Mary Re.

Chg. to 422
Statutes of 2005.

10-22-05

Law Revision Commission
RECEIVED

Carla Sack

OCT 26 2005

2044-B, Via Mariposa E.
Laguna Woods, Ca. 90237

File:

Sirs:

I live in a Senior Citizen
enclave, Leisure World. I don't
really wanna get/ pay/ cope with
a Living Trust Lawyer, etc.

A Beneficiary Deeds would
be wonderful & easy!

The AB 12 B Deeds' discussion
should consider the Aged, & more
& more will be coming along very
soon, as the Boomers age. I
actually went to a Lawyer & paid
\$1000+! & now I've no idea
what to do with the pages! Who
gets what - The Lawyer said, at
this crazy price I should be
advised elsewhere --- ?

A plain piece of paper -
I'd know who to give it to. Heary.
I'm aging as we speak, at 86.

Carla Sack

Fanny Labin
608-D Avenida Sevilla
Laguna Woods, CA 92637

October 22, 2005

Law Revision Commission
RECEIVED

OCT 24 2005

File: _____

CA Law Revision Commission
4000 Middlefield Rd. Room D-1
Palo Alto, CA 94303-4739

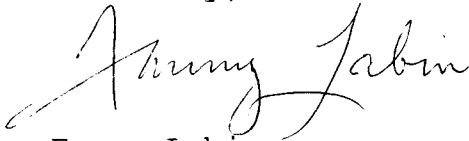
Re: Chapter 422, Statutes of 2005, AB12
Beneficiary Deeds

Please study the feasibility of passing this statute.

It would be much better for us to be able to directly deed
our property to our heirs, rather than trusts or probate costs.

For unencumbered properties, I cannot see why this would not be
possible. I do not know anything about property law, and maybe
there are laws that would not make a change possible; notwith-
standing the objections from Trust and Probate lawyers.

Sincerely,



Fanny Labin

October 24, 2005

Law Revision Commission
RECEIVED

OCT 27 2005

File _____

**Commission
4000 Middlefield Rd
Room D-1
Palo Alto, CA 94303-4739**

Commission:

Re AB 12 Beneficiary Deeds

I would like California to have a law that would allow a homeowner to transfer their home at the time of death in a Revocable Transfer on Death Beneficiary Deed.

This would include no probate tax, and the beneficiary can avoid capital gains taxes.

Sincerely,



**Barbara Clannin
723 Calle Montera
Escondido, CA 92025**

Dear Commission

Law Revision Commission
RECEIVED

SEP 2 1968

File:

DEROTHY CROWN
214 S Avenida MAJORECA
LAGUNA WOODS CA

92637

949-380-7638

In reading the
"Trapper on Black Red"

it is very important
to me for you to
pass the Law.

Living in "Laguna
woods village" is a
pain for me and
this bill would help.

Dorothy Crown

DEAR SIRS

I AM SENDING THIS NOTE TO
PLEASE ASK YOU TO APPROVE BILL
AB12 - BENEFICIARY DEEDS

I AM 71 YRS OLD AND ON A VERY
LOW INCOME BUDGET.

I WOULD LIKE TO BE ABLE TO
LEAVE MY CONDO TO MY HEIRS
WITHOUT THEM HAVING TO GO THRU
LAWYERS + PROBATE.

THANK YOU

Norma Stanley

3307 VIA BIENA VISTA - D

Law Revision Commission
RECEIVED

LAWNA WOODS CA 92637

OCT 24 2005

File: _____

Oct. 25, 2005

California Law Revision
Commission
4000 Middlefield Road,
Room D-1
Palo Alto, Ca. 94303-4739

Law Revision Commission
RECEIVED

OCT 28 2005

File: _____

Gentleman, Re: AB 12

I am writing to tell you I hope you will pass legislation that will allow homeowners to deed their property directly to their heirs at death with a "Beneficiary Deed."

When you have little else in your Estate, bank accounts with "Pay on Death" it seems very very unnecessary to open a Trust or the need for Probate.

Thank you for your consideration.

Sincerely,

Betty Klehs
308 Avenida Costilla,
Unit B
Laguna Woods, Ca.
92637-3770

318 Avenida Castilla # D
Laguna Woods, Calif. 92637

Reference: Chapter 422 Statutes of 2005
AB12 mandates study.

Attention: Commissioners:

Most California Trust and Probate
lawyers oppose this concept. I believe
they are guarding their pocketbooks.

I feel that because I own
my property, have a will and
power of attorney as how I wish
my property to be dispersed, that
it is unnecessary for me to have to
have the expense of a trust, which
I do not need because of my limited
estate.

I hope that the law that allows
a Beneficiary Deed which will allow
homeowners to directly deed their
property to their heirs, at death,
without the expense of a trustee of
a probate will MEET WITH YOUR
APPROVAL

The study has begun and I hope
it will be approved by the Commission.

Sincerely yours,
Edythe Jaffe

Law Revision Commission
RECEIVED

OCT 27 2005

File: _____

Law Revision Commission
RECEIVED

OCT 31 2005

File: _____

4011-2A Calle Sonora Oeste
Laguna Woods, CA 92637
949-829-8039
October 27, 2005

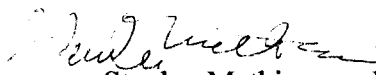
California Law Revision Commission
4000 Middlefield Road
Room D-1
Palo Alto, CA 94303-4799

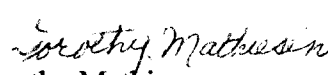
Sirs:

In re Chapter 422, Statutes of 2005, AB12 (Beneficiary Deeds) certainly meets with our approval. It seems to be legislation beneficially friendly to those of us of advancing age in particular. Our choice of beneficiary or beneficiaries is revocable. We see no particular problem; on the contrary it would avoid drawn out probate. In addition the rights of legitimate creditors would be protected.

For example, take an octogenarian with one living daughter. She can be close to retirement age, and may live in the home without paying a Capital Gains Tax. Compare that example to a beneficiary with little or no funds who is now forced to sell the home to pay the Capital Gains Tax and Probate costs.

Yours,


Stanley Mathiesen


Dorothy Mathiesen

Oct. 27, 2005

Dear Sirs:

The homeowner is entitled to a Beneficiary Deed to allow their heirs at death to receive the property without going thru probate.

I highly recommend that the Commission approve AB 12 Beneficiary Deeds.

This will certainly help homeowners such as I am a Senior Citizen.

Thank you.

Sincerely,

Helen S. Morgan

Law Revision Commission
RECEIVED

OCT 31 2005

File: _____

MAURICE & VIRGINIA DAHN



P O Box 2490; Laguna Hills, CA 92654-2490
TEL:(949) 770-5173 FAX: (949) 770-5173
E-mail: mrdahn@world.net

October 28, 2005

CALIFORNIA LAW REVISION COMMISSION
4000 Middlefield Road
Room D-1
Palo Alto, CA 94303-4739

Law Revision Commission
RECEIVED

OCT 31 2005

File: _____

Subject: Support for AB12 Beneficiary Deeds

We would like to voice our support for the adoption of beneficiary deeds as a private, timely, efficient means of transferring real property to one's heirs. We strongly support this approach as an *alternative* to using the state's cumbersome, inefficient probate process, and to the need to adopt an over-lawyered living trust for a simple estate to accomplish a private, nonprobate transfer.

Under present law, the cost to deed real property to one's heirs has become excessive. For example, apply the Probate Code formula for computing lawyer fees for the transfer of a personal residence with a fair market value of \$578,000. [less than the recent average home price]

First	\$100,000 @ 4%	\$ 4,000
Second	\$100,000 @ 3%	3,000
Balance	\$378,000 @ 2%	<u>7,560</u>
Total allowable lawyer fee		<u>\$14,560</u>

And, the Executor is allowed the same fee. If this same property is sold or transferred before death, the cost to prepare and record a transfer deed would be less than \$150. One has to really question the value added by the public probate process in this case, versus a private beneficiary deed transfer.

Please make a favorable recommendation to the Legislature supporting this consumer friendly approach to transferring real property to one's heirs without activating the judicial system, aided by lawyers and the attendant excessive charges. Give California property owners the same choices now enjoyed by property owners in other states.

Sincerely,

Maurice and Virginia Dahn

to Commissioner

I am in favor of the Beneficiary
Deed. I would like my Coop
deeded to my niece, on my
death, without going through
Probate.

Thank you

Law Revision Commission
RECEIVED

NOV - 2 2005

File: _____

Jeannette E. Jones
811- Ronda Sevilla
Unit Q
Laguna Woods, Ca.
92637



Ms. Jeannette Jones
891 Ronda Sevilla Unit Q
Laguna Woods, CA 92637-4785