

Memorandum 2007-27

Legislative Program: Status of Bills

This memorandum outlines the status of the Commission's 2007 legislative program. See the attached table. The staff will update this report orally at the meeting.

All but two of the Commission's bills have been enacted into law. The status of the two pending bills is described below.

The memorandum also briefly describes a pending bill that would assign a new study to the Commission.

AB 250 (DEVORE) — REVOCABLE TOD DEED

AB 250 would create the revocable transfer on death ("TOD") deed for real property. See *Revocable Transfer on Death (TOD) Deed*, 36 Cal. L. Revision Comm'n Reports 103 (2006). It was set for a July 10, 2007, hearing before the Senate Committee on the Judiciary.

Under the Legislature's rules, that was the last possible hearing date for the bill to be approved by that committee, in order for the bill to be enacted in 2007.

Shortly before the hearing date, the committee staff indicated that it had significant policy concerns about the bill that could not be properly analyzed and addressed in the time available. The committee asked that the bill be taken off calendar. The bill would then be ineligible for enactment in 2007, but could still proceed toward enactment in 2008 (making it a "two-year bill").

That approach would allow time, in the gap between legislative sessions, to work carefully through the issues of concern to the committee.

Assembly Member DeVore decided not to take the bill off calendar, despite the committee's request. The bill was heard on July 10. At the hearing, committee members raised concerns about the complexity of the bill, the risk of misunderstanding and misuse of the form, and the risk of fraud presented by the

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proposed property transfer device. It became clear that there were not sufficient votes to approve the bill. It was then taken off calendar by Mr. DeVore.

The bill is now a two-year bill. The staff has arranged to work with the committee staff to address their concerns. The bill will be set for a new hearing in January.

AB 310 (SILVA) — TECHNICAL AND MINOR SUBSTANTIVE CORRECTIONS

AB 310 would make a variety of technical and minor substantive improvements to the law. See *Technical and Minor Substantive Statutory Corrections*, 35 Cal. L. Revision Comm'n Reports 219 (2006).

The bill was approved by the Senate Committee on the Judiciary on July 11, with a handful of very minor technical amendments. The staff consulted with the Commission Chair regarding the amendments and he agreed that they were unobjectionable.

AB 310 is currently on the Senate consent calendar. If approved, it will return to the Assembly for concurrence in the Senate amendments.

AB 403 (TRAN) — CLRC STUDY OF ATTORNEY-CLIENT
PRIVILEGE AFTER CLIENT'S DEATH

As originally introduced, AB 403 would have revised the law to allow an attorney to claim the attorney-client privilege, even if the holder of the privilege is no longer "in existence."

The bill was amended in the Senate to delete that change and instead require a Commission study of the issue:

The California Law Revision Commission shall study the issue of whether and, if so, under what circumstances, the attorney-client privilege should survive the death of the client. The commission shall report all of its findings to the Legislature on or before July 1, 2009.

See AB 403, § 2 (as amended July 18, 2007).

The bill is currently on the Senate consent calendar. If approved, it will return to the Assembly for concurrence in the Senate amendments.

We should know the fate of the bill before the October meeting, when the Commission sets its priorities for 2008.

Respectfully submitted,

Brian Hebert
Executive Secretary

Status of 2007 Commission Legislative Program

As of August 15, 2007

	AB 250	AB 310	AB 1126	ACR 35	SB 649			
Introduced	Feb. 1	Feb. 9	Feb. 23	Mar. 7	Feb. 22			
Last Amended	June 28	July 9	Mar. 27	May 21	June 12			
First House	Mar. 27	Mar. 27	April 10	April 10	Mar. 27			
Policy Committee	May 31	—	Apr. 25	Apr. 25	—			
Fiscal Committee	June 4	April 12	May 3	May 3	April 16			
Passed House	2-year bill	July 10	June 19	May 22	June 19			
Second House		—	July 2	June 26	—			
Policy Committee			July 9	June 28	June 25			
Fiscal Committee			—	July 9	June 28			
Passed House				July 9	July 2			
Concurrence				—	July 12			
Governor			July 11	—	July 2			
Received			July 20	—	July 12			
Approved			July 20	July 12	July 12			
Secretary of State			113	100	43			

Bill List:

AB 250 (DeVore): Revocable TOD Deed
 AB 310 (Silva): Technical Corrections
 AB 1126 (Eng): Discovery in Unlawful Detainer Case
 ACR 35 (Evans): Resolution of Authority
 SB 649 (Committee on Judiciary): Trial Court Restructuring

Also of Interest:

AB 403 (Tran): CLRC Study of Attorney-Client Privilege After Client's Death

KEY

Italics: Future or speculative

"—": Not applicable

*: Double referral, not fiscal

[date]: Deadline