

Memorandum 2007-39

Legislative Program: Status of Bills

This memorandum outlines the final status of the Commission's 2007 legislative program. See the attached table.

Overall, the legislative program was successful. One bill was held over as a two-year bill, which could still be enacted next year. All of the others were enacted this year.

Matters relating to the legislative program are discussed briefly below.

AB 250 (DEVORE) — REVOCABLE TOD DEED

We received a copy of a letter from Mary Pat Toups to the members and staff of the Senate Committee on the Judiciary, regarding AB 250 (Devore). The letter included a copy of a recent article on the transfer on death deed concept. See Gary, *Transfer-On-Death Deeds: the Nonprobate Revolution Continues*, 41 Real Prop. Prob. & Tr. J. 529 (2006). The letter also included an abridged version of the article that was printed in a practice periodical. See Gary, *Transfer-On-Death Deeds*, GP Solo, Sept. 2007, at 22.

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).

Technical amendments to the bill were made on the request of the Senate Committee on the Judiciary. The Commission Comments to two sections of the proposed law need to be revised to conform to the amendments.

The staff recommends that the Commission ratify the following revised Comments:

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

Code Civ. Proc. § 12a (amended). Calculation of time

Comment. Subdivision (b) of Section 12a is amended to correct the cross-reference to former Section 946, which was repealed by 1968 Cal. Stat. ch. 385, § 1. The relevant substance of former Section 946 is continued in Section 921.

Subdivision (b) is further amended to delete the cross-references to former Sections 974 to 982. Those provisions have been repealed. See 1963 Cal. Stat. ch. 871, § 15. Justice and police courts no longer exist, so there are no corresponding new provisions.

Section 12a is also amended to make grammatical corrections and delete surplus language.

Code Civ. Proc. § 904 (amended). Appeal in a civil action or proceeding

Comment. Section 904 is amended to delete an obsolete cross-reference. Former Section 904.4, relating to an appeal from a justice court, was repealed by 1976 Cal. Stat. ch. 1288, § 14.

On ratification, those revisions will be memorialized in an appendix to the 2007-2008 Annual Report.

**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 has been enacted. See 2007 Cal. Stat. ch. 388. The scheduling of this new study will be discussed in the “New Topics and Priorities” memorandum at the December 2007 meeting.

ASSEMBLY BILL 1610 (NÚÑEZ & ENG) — PETROLEUM REFINERIES

Assembly Bill 1610 (Núñez & Eng) addresses the maintenance of petroleum refineries. Among other things, the bill would have required the Commission to conduct a study of the laws governing petroleum refineries.

The bill failed passage on the Senate floor on September 12, 2007.

Respectfully submitted,

Brian Hebert
Executive Secretary

Status of 2007 Commission Legislative Program

As of October 19, 2007

First House	Introduced Last Amended	AB 250	AB 310	AB 1126	ACR 35		SB 649			
		Feb. 1	Feb. 9	Feb. 23	Mar. 7			Feb. 22		
		June 28	July 9	Mar. 27	Mar. 27	May 21		June 12		
		Mar. 27	Mar. 27	April 10	April 10	Apr. 25		Mar. 27		
		May 31	—	—	Apr. 25	Apr. 25		—		
Second House	Policy Committee Fiscal Committee Passed House	June 4	April 12	May 3	May 3		April 16			
		2-year bill	July 10	June 19	May 22		June 19			
			—	July 2	June 26		—			
Concurrence			Aug. 27	July 9	June 28		June 25			
			Aug. 30	—	July 9		June 28			
			Sep. 6	July 11	—		July 2			
Governor	Received Approved		Oct. 5	July 20	—		July 12			
			Oct. 5	July 20	July 12		July 12			
Secretary of State	Date Chapter #									
			263	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

AB 1610 (Nunez & Eng): CLRC Study of Petroleum Refinery Law

KEY

Italics: Future or speculative

“—”: Not applicable

*: Double referral, not fiscal

[date]: Deadline