

Third Supplement to Memorandum 2017-6

Revocable Transfer on Death Deed: Follow-Up Study

The Commission¹ has received a letter from Larry Doyle, writing on behalf of the Conference of California Bar Associations (hereafter “CCBA”). That letter, which is attached as an Exhibit, comments on the issue raised in Memorandum 2017-6.

Memorandum 2017-6 discusses a potentially problematic ambiguity in the revocable transfer on death deed (“RTODD”) statute. While the law expressly requires that an RTODD be recorded, it is not entirely clear whether that requirement applies to the “common questions” (hereafter “FAQ”) part of the RTODD form.

CCBA believes that the law should be revised to make clear that failure to record the FAQ has no effect on the validity of an RTODD, whether that deed was recorded before or after the proposed revision is enacted:

CCBA agrees that ... requiring the recording of the FAQ ... would be unfair, unnecessarily complicated, and potentially disastrous to those persons who already have recorded RTODDs without the FAQ, and to their beneficiaries under those RTODDs.²

The staff appreciates CCBA’s input on this issue.

Respectfully submitted,

Brian Hebert
Executive Director

1. 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.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. See Exhibit.



Justice Through Laws

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January 25, 2017

The Hon. Chair and Members
California Law Revision Commission
c/o UC Davis School of Law
400 Mrak Hall Drive
Davis, CA 95616

Revocable Transfer on Death Deeds -- Follow-Up Study - Study L-3032.1
Support for Staff Recommendation (Memo 2017-6)

Dear Chairman Lee and CLRC Members and Staff:

The Conference of California Bar Associations (CCBA), a statewide organization of attorneys representing more than 30 metropolitan, regional and specialty bar associations, supports the recommendation of Commission staff in [Memorandum 2017-6](#) (and reaffirmed in [Memorandum 2017-6.1](#)) to amend the Revocable Transfer on Death Deed (RTODD) law to clarify that recording or failing to record the statutorily-mandated FAQ has no effect on the validity of an RTODD.

The CCBA was a co-sponsor or primary supporter of all the legislation proposing to authorize the use of RTODD in California since 2010, and was an active participant in the development and enactment of AB 139 (Gatto) of 2015 (Chapter 293), the bill that finally accomplished the task. The CCBA also was a supporter, and active participant in the development and enactment, of AB 1779 (Gatto) of 2016, the bill that commissioned the current study.

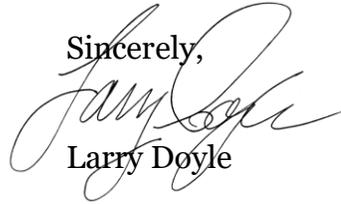
The RTODD law (AB 139) was intended to permit an owner of residential real property to pass the property simply and directly to a beneficiary on the owner's death, without probate, by means of a recorded deed, just as one long has been able to pass money, stocks, and essentially every other kind of property to their loved ones outside of the long, potentially complicated, and almost certainly expensive probate process. The CLRC staff recommendation is in complete accord with this intent, and the CCBA agrees that the alternative, requiring the recording of the FAQ, would be unfair, unnecessarily

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complicated, and potentially disastrous to those persons who already have recorded RTODDs without the FAQ, and to their beneficiaries under those RTODD.

Thank you for your valuable efforts on this important issue. Please contact me at (916) 761-8959 or Larry@LarryDoyleLaw.com if I can be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Doyle", is written over the typed name below.

Larry Doyle