

First Supplement to Memorandum 87-46

Subject: Study L-1030 - Amendments to Assembly Bill 708 (Amendment to Probate Code Section 13152)

The attached letter from Valerie J. Merritt suggests that Section 13152 be amended as proposed in Memorandum 87-46. Although she does not proposed that the section be amended in Assembly Bill 708, the staff believes that the suggested clarification of Section 13152 should be made this session.

The last sentence of the staff suggested Comment to Section 13152 (yellow attachment to Memorandum 87-46) should be revised to read:

The new sentence added to Section 13152 is the same as the last sentence of Section 13103 (affidavit procedure for collection or transfer of personal property) and subdivision (c) of Section 13200 (affidavit procedure for real property of less than \$10,000 in value).

We will review the other suggestions made in the letter from Ms. Merritt when we make the technical review of the Probate Code in the course of preparing the new Probate Code for enactment.

Respectfully submitted,

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Executive Secretary

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June 3, 1987

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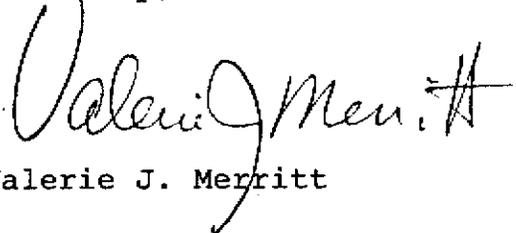
Re: Disposition of Estate Without Administration

Commissioners:

Sections 13103 and 13200(c) clearly state that a declarant can choose the probate referee for appraisal purposes. Section 13152(b) omits such a statement. Practitioners have been presuming that the declarant still has the ability to choose the probate referee to conduct the inventory and appraisal. When these sections are modified as part of the overall technical review of the probate code, I suggest that 13152 have a sentence added to it in order to make it clear that this is intended.

Section 13156 is not the same as the existing Sections 13109 and 13204, even though all of these sections deal with the liability of a successor in interest for the unsecured debts of decedent. I believe that all of these sections should be parallel and suggest that this too be rewritten at the time of the technical review.

Sincerely,



Valerie J. Merritt

VJM/cdk