

AMENDED IN SENATE JULY 1, 2005

AMENDED IN ASSEMBLY MAY 4, 2005

AMENDED IN ASSEMBLY APRIL 26, 2005

AMENDED IN ASSEMBLY MARCH 16, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 12

Introduced by Assembly Member DeVore

December 6, 2004

An act relating to nonprobate transfers.

LEGISLATIVE COUNSEL'S DIGEST

AB 12, as amended, DeVore. Nonprobate transfers: property conveyances upon death.

Existing law authorizes certain types of property to be transferred by a property holder to another person without that property being subject to probate proceedings upon the death of the property holder. Existing law permits, among other types of nonprobate transfers, transfers on death of an insurance policy, bond, pension plan, specified trust and other financial accounts, and property held in joint tenancy. Existing law also requires the California Law Revision Commission to study topics approved by the Legislature.

This bill would require the California Law Revision Commission to study the effect of California's nonprobate transfer provisions and to study statutes in other states that establish beneficiary deeds as a means of conveying real property through nonprobate transfers. The objective of the study would be to determine whether legislation establishing beneficiary deeds should be enacted in California. The bill would require the commission to report its findings to the

Legislature on or before January 1, 2007. The bill would also require the commission, if it recommends that the Legislature adopt a statutory scheme establishing beneficiary deeds, to also recommend the content of the proposed statute.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

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

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

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

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

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

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

29 (5) *The tax implications of a beneficiary deed for the*
30 *transferor, the transferee, and the general public as a result of*

- 1 *the nonprobate transfer, including whether the property would be*
- 2 *reassessed and if tax burdens would shift or decrease.*

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