

AMENDED IN SENATE MARCH 25, 2011

**SENATE BILL**

**No. 491**

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**Introduced by Senator Evans**

February 17, 2011

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~~An act to amend Section 800.41 of the Civil Code, relating to real property.~~ *An act to amend Section 8250 of the Probate Code, relating to civil procedure.*

LEGISLATIVE COUNSEL'S DIGEST

SB 491, as amended, Evans. ~~Real property: floating homes. Civil procedure: probate of wills.~~

*Under existing law, when a will is contested, the contestant is required to file with the court an objection to probate of the will. A summons is required to be issued and served, with a copy of the objection, on specified persons. Existing law establishes the procedure for the issuance and service of a summons, and authorizes a plaintiff to have the clerk of the court issue one or more summons for any defendant.*

*This bill would clarify that the provisions that authorize a clerk to issue a summons are applicable when a person files an objection to the probate of a will by adding a cross-reference to those provisions.*

~~Existing law prohibits a homeowner from being charged a fee when obtaining a rental agreement on a floating home berth for a term of 12 months or a lesser period.~~

~~This bill would make a technical, nonsubstantive change to these provisions.~~

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

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

1 SECTION 1. Section 8250 of the Probate Code is amended to  
2 read:

3 8250. (a) When a will is contested under Section 8004, the  
4 contestant shall file with the court an objection to probate of the  
5 will. Thereafter, a summons shall be issued and served, with a  
6 copy of the objection, on the persons required by Section 8110 to  
7 be served with notice of hearing of a petition for administration  
8 of the decedent’s estate. The summons shall be issued and served  
9 as provided in Chapter 3 (commencing with Section 412.10) and  
10 Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2  
11 of the Code of Civil Procedure. The summons shall contain a  
12 direction that the persons summoned file with the court a written  
13 pleading in response to the contest within 30 days after service of  
14 the summons.

15 (b) A person named as executor in the will is under no duty to  
16 defend a contest until the person is appointed personal  
17 representative.

18 SECTION 1. ~~Section 800.41 of the Civil Code is amended to~~  
19 ~~read:~~

20 ~~800.41. A homeowner shall not be charged a fee for other than~~  
21 ~~rent, utilities, and incidental reasonable charges for services~~  
22 ~~actually rendered.~~

23 ~~A homeowner shall not be charged a fee for obtaining a rental~~  
24 ~~agreement on a floating home berth for (1) a term of one year, or~~  
25 ~~(2) a lesser period as mutually agreed upon by both the homeowner~~  
26 ~~and the management. A fee may be charged for a rental agreement~~  
27 ~~of more than one year if the fee is mutually agreed upon by both~~  
28 ~~the homeowner and management.~~