

**Introduced by Senator De León**

February 19, 2016

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An act to amend Section 13104 of the Probate Code, relating to probate.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1387, as introduced, De León. Collection or transfer of personal property: affidavit procedure.

Existing law requires, in order to collect money, receive tangible personal property, or have evidences of a debt, obligation, interest, right, security, or chose in action transferred under specified provisions, an affidavit or a declaration under penalty of perjury to be furnished to the holder of the decedent's property stating certain information. Existing law requires reasonable proof of the identity of each person executing the affidavit or declaration to be provided to the holder of the decedent's property, and authorizes the holder to, if the affidavit or declaration is executed in the presence of the holder, reasonably rely on specified information as reasonable proof of identity, including a passport issued by a foreign government that has been stamped by the United States Immigration and Naturalization Service, as specified.

This bill would make nonsubstantive, technical changes to those 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 13104 of the Probate Code is amended  
2     to read:

1 13104. (a) Reasonable proof of the identity of each person  
2 executing the affidavit or declaration shall be provided to the holder  
3 of the decedent's property.

4 (b) Reasonable proof of identity is provided for the purposes of  
5 this section if both of the following requirements are satisfied:

6 (1) The person executing the affidavit or declaration is  
7 personally known to the holder.

8 (2) The person executes the affidavit or declaration in the  
9 presence of the holder.

10 (c) If the affidavit or declaration is executed in the presence of  
11 the holder, a written statement under penalty of perjury by a person  
12 personally known to the holder affirming the identity of the person  
13 executing the affidavit or declaration is reasonable proof of identity  
14 for the purposes of this section.

15 (d) If the affidavit or declaration is executed in the presence of  
16 the holder, the holder may reasonably rely on any of the following  
17 as reasonable proof of identity for the purposes of this section:

18 (1) An identification card or driver's license issued by the  
19 Department of Motor Vehicles ~~of this state~~ that is current or was  
20 issued during the preceding five years.

21 (2) A passport issued by the *United States* Department of State  
22 ~~of the United States~~ that is current or was issued during the  
23 preceding five years.

24 (3) Any of the following documents if the document is current  
25 or was issued during the preceding five years and contains a  
26 photograph and description of the person named on it, is signed  
27 by the person, and bears a serial or other identifying number:

28 (A) A passport issued by a foreign government that has been  
29 stamped by the United States ~~Immigration and Naturalization~~  
30 ~~Service~~. *Customs and Border Protection*.

31 (B) A driver's license issued by a state other than California.

32 (C) An identification card issued by a state other than California.

33 (D) An identification card issued by any branch of the armed  
34 forces of the United States.

35 (e) For the purposes of this section, a notary public's certificate  
36 of acknowledgment identifying the person executing the affidavit  
37 or declaration is reasonable proof of identity of the person  
38 executing the affidavit or declaration.

39 (f) Unless the affidavit or declaration contains a notary public's  
40 certificate of acknowledgment of the identity of the person, the

1 holder shall note on the affidavit or declaration either that the  
2 person executing the affidavit or declaration is personally known  
3 or a description of the identification provided by the person  
4 executing the affidavit or declaration.

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