

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB358)

Received: 03/17/2000

Received By: kahlepj

Wanted: Today

Identical to LRB:

For: Michael Huebsch (608) 266-0631

By/Representing: Gary Sherman

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Alt. Drafters:

Subject: Probate

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Require recording of proof of notice and affidavit

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 03/17/2000	jgeller 03/17/2000		_____ _____			
/1			martykr 03/17/2000	_____ _____	lrb_docadmin 03/17/2000	lrb_docadmin 03/17/2000	

FE Sent For:

<END>

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1?	kahlepj	1/3/16 jg	km 3/17	Seib 3/17			

FE Sent For:

<END>

Boots - Sherman's Office

① need another amdt like old one to AB358

to Huebsch

Sherman

999 0466/1

1999 DRAFTING REQUEST

Assembly Amendment (AA-AB358)

Received: 05/26/99

Received By: kahlepj

Wanted: As time permits

Identical to LRB:

For: Gary Sherman (608) 266-7690

By/Representing: himself

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Alt. Drafters:

Subject: Probate

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

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Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 05/28/99	jgeller 05/28/99		_____			
/1			jfrantze 05/28/99	_____	lrb_docadmin 05/28/99	lrb_docadmin 05/28/99	

FE Sent For:

<END>



State of Wisconsin
1999 - 2000 LEGISLATURE

a1892/1
LRB
PJK

ASSEMBLY AMENDMENT ,
TO 1999 ASSEMBLY BILL 358

today
D-note

1 At the locations indicated, amend the bill as follows:

2 1. Page 5, line 13: delete lines 13 to 23 and substitute:

3 "867.03 (1g) GENERALLY. (intro.) When a decedent leaves solely owned property
4 in this state which does not exceed \$10,000 \$20,000 in value, any heir of the decedent
5 or person who was guardian of the decedent at the time of the decedent's death may
6 collect any money due the decedent, receive the property of the decedent ~~if it is not~~
7 ~~an interest in or lien on real property~~ and have any evidence of interest, obligation
8 to or right of the decedent transferred to the affiant ~~upon furnishing~~ if the heir or
9 guardian provides to the person owing the money, having custody of the property or
10 acting as registrar or transfer agent of the evidences of interest, obligation to or right,
11 ~~with or, if the property is an interest in or lien on real property, provides to the~~
12 register of deeds preliminary to the recording required under sub. (2m), proof of prior

1 mailed notice under sub. (1m) if applicable and with an affidavit in duplicate showing
2 all of the following:".

3 (END)

Dunfee

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa1892/fdn

PJK.....

JG

This is the amendment that Representative Sherman requested be sent to your office for introduction.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1892/1dn
PJK:jlg:km

March 17, 2000

This is the amendment that Representative Sherman requested be sent to your office for introduction.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: Pam.Kahler@legis.state.wi.us

PJK
2

From: Sherman, Gary
Sent: Tuesday, May 25, 1999 2:35 PM
To: 'Ladd, Mark'
Cc: Freidig, Boots
Subject: RE: AB358

2
Your point is well taken and I will have an amendment drafted to do just that. By copy of this letter, I am asking my legislative aide to contact the drafting attorney at the Legislative Reference Bureau with a copy of your letter as drafting instructions.

Gary E. Sherman
74th Assembly District

-----Original Message-----

From: Ladd, Mark [mailto:MarkL@racineco.com]
Sent: Tuesday, May 25, 1999 2:09 PM
To: Rep.Sherman
Subject: AB358

Rep. Sherman,

By way of introduction, I am the chairman of the Wisconsin Register of Deeds Association Legislative Committee.

I have just reviewed AB358 and would like to offer the following input from the WRDA's point of view.

1
Basically, this proposal will have only minor impact on our office, so we are not opposed to it. We have one technical - but important - correction we would like to see made.

Page 5, line 20 of the draft currently reads, "or upon furnishing the register of deeds...".

All documents submitted to the register of deeds office are subject to a fee specified in 59.43(2). The current wording could/will be interpreted by some attorney as declaring this document to be somehow exempt from the recording fee. This could be clarified by changing this wording to "upon recording with the register of deeds...".

This would be consistent with the language proposed on Page 6 for section 867.03(2m).

Thank you for your consideration of this admittedly technical, but practical suggestion. I look forward to hearing from you in this regard.

Mark Ladd
Racine County Register of Deeds
Chair, WRDA Legislative Committee
markl@racineco.com <<mailto:markl@racineco.com>>

Kahler, Pam

From:
Sent:
To:
Subject:

Sherman, Gary
Wednesday, May 26, 1999 3:45 PM
Kahler, Pam
RE: Amendment to AB 358

Why not just make it clear that, when applied to the Register of Deeds, the word "furnishing" means presenting for recording, along with any required fees.

5

Gary E. Sherman
74th Assembly District

-----Original Message-----

From: Kahler, Pam
Sent: Wednesday, May 26, 1999 3:26 PM
To: Sherman, Gary
Subject: RE: Amendment to AB 358

If you want me to draft an amendment based on what the Register of Deeds Association sent you, please tell me how you want to harmonize s. 867.03 (1g) and (2m).

-----Original Message-----

From: Sherman, Gary
Sent: Wednesday, May 26, 1999 2:37 PM
To: Kahler, Pam
Subject: RE: Amendment to AB 358

4

I didn't request anything. The Register of Deeds Association did. Their point is simple and hard to dispute. Registers of deeds are not required to accept anything, except as provided for recording and for a substantial fee. They are afraid that the "furnishing" language creates an ambiguity which someone might exploit to try and avoid paying the fee. They just want the language clarified so that doesn't happen.

Gary E. Sherman
74th Assembly District

-----Original Message-----

From: Kahler, Pam
Sent: Wednesday, May 26, 1999 2:11 PM
To: Sherman, Gary
Subject: Amendment to AB 358

Representative Sherman:

I need some clarification for the amendment that you requested. The added language seems to be redundant to s. 867.03 (2m) and therefore unnecessary. Section 867.03 (1g) states that a person may receive property of the decedent and have any evidence of the interest of the decedent transferred to him or her if he or she furnishes the register of deeds, among others, with the necessary documentation. Section 867.03 (2m) states that *recording* a certified copy or duplicate original of any affidavit that lists real property constitutes the transfer of the evidence of the interest in the real property. If there is no recording, there is no transfer.

3

If you want s. 867.03 (1g) to include the recording requirement also, the two subsections must be harmonized. Do you want the proof of prior mailed notice under sub. (1m), which must be furnished, to be recorded also? Section 867.03 (1g) currently requires the person to submit an affidavit in duplicate. Do you want the affidavit in duplicate to be both furnished and recorded, and s. 867.03 (2m) to be amended to be consistent? Do you want an affidavit in duplicate to be furnished but only a duplicate original to be recorded, and s. 867.03 (2m) to be amended to be consistent? Do you want only a duplicate original to be furnished to and recorded with the register of deeds but affidavits in duplicate to be furnished in all other situations?

These questions may seem very picayune but if two separate subsections are going to accomplish the same thing, they must be consistent with each other. Please let me know how you want to proceed with this amendment.

+++++