

#L-1026

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Memorandum 86-35

Subject: Study L-1026 - Estate and Trust Code (Creditor Claims--
draft of tentative recommendation)

Attached to this memorandum is a draft of the provisions relating to creditor claims. The draft conforms to Commission decisions made at the June 1985 meeting. A few notes and queries appear following the draft sections.

Respectfully submitted,

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Assistant Executive Secretary

CREDITOR CLAIMS

The provisions of the proposed law governing creditor claims generally follow both the organization and substance of existing law. The proposed law accomplishes some reorganization and also makes many simplifications and technical and clarifying changes. Minor substantive changes are noted in the Comments to the specific provisions of the proposed law; major changes are described below.

Notice to Creditors

THE LAW REVISION COMMISSION TENTATIVELY RECOMMENDS THAT ACTUAL, AS WELL AS PUBLISHED, NOTICE SHOULD BE GIVEN TO KNOWN CREDITORS AND TO CREDITORS WHO BECOME KNOWN TO THE PERSONAL REPRESENTATIVE IN THE COURSE OF PREPARING THE INVENTORY. THIS REQUIREMENT WOULD APPLY ONLY TO ORDINARY CREDITORS AND NOT TO POTENTIAL CLAIMANTS OF UNLIQUIDATED AMOUNTS. CREDITORS GIVEN ACTUAL NOTICE WOULD HAVE 30 DAYS IN WHICH TO MAKE A CLAIM BEFORE BEING BARRED.

THIS RECOMMENDATION IS MADE IN RESPONSE TO THE RECENT CASES OF MENNONITE BOARD OF MISSIONS V. ADAMS, 130 S. Ct. 2706 (1983) AND CONTINENTAL INSURANCE CO. V. MOSELEY, 653 P. 2d 158 (1982) AND 683 P. 2d 20 (1984), WHICH APPLY DUE PROCESS PRINCIPLES TO CREDITOR NOTICE IN PROBATE. THE COMMISSION SOLICITS COMMENTS AND SUGGESTIONS CONCERNING IMPLEMENTATION OF SUCH AN ACTUAL NOTICE REQUIREMENT.

How Claim is Made

Existing law requires claims to be either filed directly with the court or presented to the personal representative.¹ This dual procedure introduces unnecessary complexity into what should be a basically simple scheme. The proposed law initiates a single procedure: the claim must be filed with the court and a copy served on the personal representative, with proof of service returned to the court. Failure to serve the personal representative would not affect the validity of a claim properly filed with the court.

1. Prob. Code § 700.

Late Claims

A creditor who was out of state during the claim period and did not receive notice is entitled to make a late claim.² The proposed law limits this procedure to a non-business creditor who was out of state during the entire claim period. A creditor doing business in the state should be held to the same requirements as other creditors.

Time for Personal Representative or Court to Act

Existing law provides that a creditor may treat a claim as rejected and bring an action on the claim if the personal representative or court fails to act on the claim within 10 days after the claim is made.³ As a practical matter, this period is unrealistically short. The proposed law allows the personal representative and the court 30 days in which to act.

Allowance or Rejection of Claim

The proposed law provides for a single document for allowance or rejection of a claim. This will simplify the forms and papers used and will help ensure uniformity of procedure among the various jurisdictions. The proposed law encourages the Judicial Council to develop official forms for allowance and rejection of claims.

Alternative Resolution of Disputed Claim

Existing law provides a means for referring a disputed claim to a disinterested person for determination.⁴ This procedure is inefficient, since it provides an unsatisfied party with the opportunity to have the court overrule the determination, thereby perpetuating the dispute. The proposed law eliminates this procedure in favor of a conclusive determination by a court commissioner or referee⁵, and adds an alternative procedure for binding arbitration of the disputed claim. The arbitration procedure is drawn from the guardianship and conservatorship law.⁶

2. Prob. Code § 707(a).

3. Prob. Code § 712.

4. Prob. Code § 718(1).

5. Prob. Code § 718(2).

6. Prob. Code § 2406.

Action on Rejected Claim

If a creditor brings an unsuccessful action to enforce a claim that has previously been rejected, the proposed law imposes on the creditor reasonable attorney's fees. This provision will help minimize unnecessary litigation over a claim that has already been reviewed and rejected once before, either by the personal representative or by the court. The provision generalizes the requirement in existing law that a personal representative who is also a creditor must pay reasonable attorney's fees if the personal representative brings an unsuccessful action on the claim.⁷

Claims in Civil Actions

EXISTING PROVISIONS GOVERNING CLAIMS AGAINST THE ESTATE WHERE THERE IS PENDING LITIGATION OR WHERE LITIGATION IS COMMENCED AFTER THE DECEDENT'S DEATH ARE COMPLEX, CONFUSED, AND SCATTERED IN DIFFERENT PLACES IN THE PROBATE CODE AND CODE OF CIVIL PROCEDURE. THE COMMISSION SOLICITS SUGGESTIONS FOR SIMPLIFICATION AND IMPROVEMENTS OF THE LAW IN THIS AREA.

7. Prob. Code § 703.

PART 4. CREDITOR CLAIMS

Chapter 1. General Provisions

- § 9000. Claim defined
- § 9001. Notice to creditors
- § 9002. Claim requirement

Chapter 2. Time for Making Claims

- § 9050. Four month claim period
- § 9051. One month claim period where notice is served
- § 9052. Time not extended by vacancy in office
- § 9053. Where personal representative acts on claim after expiration of time
- § 9054. Late claims

Chapter 3. Making of Claims

- § 9100. How claim is made
- § 9101. Documentary support of claim
- § 9102. Claim founded upon written instrument
- § 9103. Where personal representative is creditor
- § 9104. Form of claim

Chapter 4. Claims in Civil Actions

- § 9150. Claim prerequisite to action
- § 9151. Enforcement of security interest
- § 9152. Claim involving pending action
- § 9153. Claim for injury or death not involving pending action
- § 9154. Claim covered by insurance

Chapter 5. Claims by Surviving Spouse

- § 9200. Claim by surviving spouse for payment of debt of decedent
- § 9201. Claim by surviving spouse for payment of debt of surviving spouse
- § 9202. Treatment of claim of surviving spouse

Chapter 6. Claims by Public Entities

- § 9250. Claim by public entity required
- § 9251. Claims governed by other statutes
- § 9252. Limitation on application of article
- § 9253. Priority of claims not affected by article
- § 9254. Claim by Director of Health Services

Chapter 7. Allowance and Rejection of Claims

- § 9300. Procedure by personal representative
- § 9301. Procedure by court
- § 9302. Effect of statute of limitations
- § 9303. Allowed and approved claims
- § 9304. Partial allowance
- § 9305. Failure of personal representative or court to act
- § 9306. Action on rejected claim
- § 9307. Reference to determine disputed claim
- § 9308. Submission of claim to arbitration

Chapter 8. Claims Established by Judgment

- § 9350. Money judgment against decedent
- § 9351. Money judgment against personal representative
- § 9352. Enforcement of non-money judgment
- § 9353. Property under levy of execution
- § 9354. Converting attachment lien to judgment lien

PART 4. CREDITOR CLAIMS

Chapter 1. General Provisions§ 9000. "Claim" defined

9000. (a) As used in this division, "claim" includes a demand for payment for any of the following:

(1) Liability of the decedent whether arising in contract, tort, or otherwise.

(2) Liability of the estate for funeral expenses of the decedent.

(3) Liability for taxes incurred before the decedent's death, other than property taxes, special assessments, assessments, gift taxes, and estate taxes.

(b) The term does not include disputes regarding title of a decedent to specific assets alleged to be included in the estate.

Comment. Section 9000 is new. It is drawn from Section 1-201(4) of the Uniform Probate Code. Section 9000 defines "claim" broadly to include all claims, whether in contract, tort, or otherwise, including claims for damages for injuries to or death of a person or injury to property and all claims against the personal representative of any decedent who in his or her lifetime has wasted, destroyed, taken or carried away or converted to his or her own use, the property of another person or committed any trespass on the real property of another person. While the term "claim" excludes administration expenses such as personal representative and attorney fees, it includes funeral expenses. This continues a provision of former Probate Code Section 707(a). The provisions relating to tax liability restate former Probate Code Section 707.5(c) without substantive change. A claim need not be made in the case of foreclosure of a lien on property in the decedent's estate. See Section 9151 (enforcement of security interest). With regard to title to property, see Section [851.5].

§ 9001. Notice to creditors

9001. Service and publication or posting of the notice of hearing of the petition to administer the decedent's estate pursuant to Chapter 2 (commencing with Section 8100) of Part 2 constitutes notice to the creditors of the decedent of the requirements of this chapter.

Comment. Section 9001 restates the first portion of former Probate Code Section 700, with the addition of the reference to service of notice on creditors [to be drafted]. For additional notice requirements to public entities, see Chapter 6 (commencing with Section 9250).

§ 9002. Claim requirement

9002. Except as otherwise provided by statute:

(a) All claims, whether due, not due, or contingent, and whether liquidated or unliquidated, shall be made in the manner and within the time prescribed in this chapter.

(b) A claim that is not made as prescribed in this chapter is barred.

Comment. Section 9002 generalizes a portion of the first sentence of former Probate Code Section 707. Section 9002 applies to all claims, whether in contract, tort, or otherwise, including claims for funeral expenses and claims for damages for injuries to or death of a person or injury to property and all claims against the executor or administrator of any testator or intestate who in his or her lifetime has wasted, destroyed, taken or carried away or converted to his or her own use, the property of another person or committed any trespass on the real property of another person. See Section 9000 ("claim" defined). The requirement that a claim be made is subject to exception pursuant to other provisions. See, e.g., Sections 9151 (enforcement of security interest), 9154 (claim covered by insurance).

CROSS-REFERENCES

Definition

Claim § 9000

Chapter 2. Time for Making Claims

§ 9050. Four month claim period

9050. Except as otherwise provided by statute, a claim shall be made within four months after letters are issued to a general personal representative. For the purpose of this subdivision, if letters are issued by more than one court or if subsequent letters are issued by the same court, the four month period commences upon the first issuance of letters to a general personal representative.

Comment. Section 9050 restates the last portion of subdivision (a) and subdivision (c) of former Probate Code Section 700 without substantive change. In the case of a special administrator granted the powers of a general personal representative, the nonclaim period commences to run upon first issuance of letters reciting the general powers of the special administrator.

CROSS-REFERENCES

Definitions

Claim § 9000
Court § 29
Letters § 52
Personal representative § 58

Note. The statute governing appointment of a special administrator with powers of a general personal representative will be revised to ensure that notice is given in connection with the appointment.

§ 9051. One month claim period where notice is served

9051. If notice of hearing of the petition to administer the decedent's estate is served on a creditor pursuant to Chapter 2 (commencing with Section 8100) of Part 2, a claim shall be made within 30 days after service is complete.

Comment. Section 9051 is new. It implements the requirement of service of notice on known creditors [to be drafted].

CROSS-REFERENCES

Definitions

Claim § 9000

QUERY. The Commission is recommending 30 days after actual notice for a known creditor to make a claim. Suppose actual notice is given at the same time as publication at the commencement of probate--should the creditor who receives actual notice have until expiration of the general 4 month claim period anyway? This is the scheme of the Uniform Probate Code proposal. Since 4 months will have to elapse anyway before a distribution may be made, it would seem to make sense to cut off known creditor claims 4 months after publication or 30 days after actual notice, whichever occurs later. ON THE OTHER HAND, PROBATE COULD BE SUBSTANTIALLY EXPEDITED IF AT THE OUTSET OF ADMINISTRATION ACTUAL NOTICE IS GIVEN TO ALL KNOWN CREDITORS WHO THEN HAVE 30 DAYS TO MAKE CLAIMS, AFTER WHICH CLAIMS MAY BE PAID, DISTRIBUTION MADE, AND THE ESTATE CLOSED.

§ 9052. Time not extended by vacancy in office

9052. A vacancy in the office of the personal representative before expiration of the time for making a claim does not extend the time.

Comment. Section 9052 continues former Probate Code Section 700(b) without substantive change. A vacancy occurs where the personal representative resigns, dies, or is removed from office. Section 8520 (vacancy in office).

CROSS-REFERENCES

Definitions

Claim § 9000

Personal representative § 58

§ 9053. Where personal representative acts on claim after expiration of time

9053. A claim that is made before expiration of the time for making the claim is timely made even though acted upon by the personal representative or by the court after expiration of the time.

Comment. Section 9053 restates the last sentence of former Probate Code Section 712 without substantive change.

CROSS-REFERENCES

Definitions

Claim § 9000

Court § 29

Personal representative § 58

§ 9054. Late claims

9054. (a) A claim may be made at any time within one year after the time prescribed in Section 9050 and before petition for final distribution has been filed if it is made to appear by affidavit to the satisfaction of the court that any of the following conditions is satisfied:

(1) The claimant was out of the state during the entire period prescribed in Section 9050 and did not receive notice. This paragraph does not apply to a business claimant who does business in the state.

(2) The claimant in good faith filed a claim in another proceeding for the same decedent that is not consolidated with the present proceeding and in which letters are not issued.

(b) Neither the making of a claim pursuant to this section, nor its later establishment in whole or in part, subjects to the claim either property distributed pursuant to court order or any payments properly made before the claim is made.

Comment. Section 9054 restates the second and third sentences of former Probate Code Section 707(a), but limits subdivision (a)(1) to nonbusiness claimants who were out of state during the entire claim period.

CROSS-REFERENCES

Definitions

Claim § 9000
Court § 29
Letters § 52
Order § 53
Property § 62

NOTE. Subdivision (b) may be relocated among general provisions on the effect of distribution and statutes of limitations, and will be made consistent with the general provisions on the effect of a preliminary distribution.

Chapter 3. Making of Claims

§ 9100. How claim is made

9100. (a) A claim is made by filing the claim in the office of the clerk.

(b) A claim may be made by the claimant or a person in behalf of the claimant.

(c) The person making the claim shall serve a copy of the claim on the personal representative within the time the claim is required to be made. The claim shall include a statement under penalty of perjury that the person making the claim has served a copy of the claim on the personal representative. Failure of the person making the claim to serve a copy of the claim on the personal representative does not affect the validity of the claim.

Comment. Subdivisions (a) and (c) of Section 9100 supersede former Probate Code Section 700(a). A claim is no longer required to be presented to the personal representative to be properly made; filing with the court clerk is sufficient. However, a copy of the claim must be served on the personal representative.

Subdivision (b) generalizes a provision of former Probate Code Section 704.2; a person acting in behalf of the claimant may include the personal representative or the guardian or conservator of the estate of the claimant.

CROSS-REFERENCES

Definitions

Claim § 9000
Clerk § 27
Person § 56
Personal representative § 58

§ 9101. Documentary support of claim

9101. (a) A claim shall be supported by the affidavit of the claimant or a person in behalf of the claimant stating, to the knowledge of the affiant:

(1) If the claim is due, the amount is justly due, no payments have been made on the claim that are not credited, and there are no offsets to the claim.

(2) If the claim is not due, or is contingent, the particulars of the claim.

(3) If the affidavit is made by a person other than the claimant, the reason therefor.

(b) The personal representative may require satisfactory vouchers or proof to be produced in support of the claim. If the claimant includes with the claim an original voucher, the claimant may withdraw the voucher after a copy is attached to the claim.

Comment. Section 9101 restates Probate Code Section 705 without substantive change. The claim may be supported by a declaration under penalty of perjury in lieu of an affidavit. Code Civ. Proc. § 2015.5.

CROSS-REFERENCES

Definitions

Claim § 9000
Person § 56
Personal representative § 58

§ 9102. Claim founded upon written instrument

9102. (a) If a claim is founded on a written instrument, the original need not be included with the claim, but a copy of the original with all endorsements shall be attached to the claim. The original instrument shall be exhibited to the personal representative or court upon demand unless it is lost or destroyed, in which case its loss or destruction shall be stated in the claim.

(b) If the claim or a part of the claim is secured by a mortgage, deed of trust, or other lien that is recorded in the office of the recorder of the county in which the security is situated, it shall be sufficient to describe the mortgage, deed of trust, or lien and refer to the date or volume and page of its record.

Comment. Section 9102 restates former Probate Code Section 706 without substantive change.

CROSS-REFERENCES

Actions at chambers § 7061

Definitions

Claim § 9000

Court § 29

Personal representative § 58

§ 9103. Where personal representative is creditor

9103. (a) If the personal representative is a creditor of the decedent, the clerk shall present the claim to the court for approval or rejection.

(b) If the court approves the claim, the claim shall be paid as other claims in the course of administration.

(c) If the court rejects the claim, the personal representative may bring an action against the estate. Summons shall be served upon the judge, who shall appoint an attorney, at the expense of the estate, to defend the action.

Comment. Section 9103 restates former Probate Code Section 703 without substantive change. If the personal representative fails to recover, the personal representative must pay all costs, including reasonable attorney's fees, to be fixed by the court. Section 9307 (action on rejected claim).

CROSS-REFERENCES

Actions at chambers § 7061

Definitions

Claim § 9000

Clerk § 27

Court § 29

Personal representative § 58

Note. This section may be relocated to provisions relating to allowance of claims.

§ 9104. Form of claim

[This section is reserved for provisions relating to the form of claim, including whether ordinary bills may be considered as claims and whether amendments to claims may be submitted. The Commission is awaiting a report from the State Bar on this matter.]

Chapter 4. Claims in Civil Actions

NOTE. These provisions will be circulated to trial lawyers and defense lawyers groups particularly soliciting comments on the existing statutory scheme, how it works in practice, and whether it its subject to simplification or improvement.

§ 9150. Claim prerequisite to action

9150. Except as otherwise provided in Sections 9151 and 9154, the holder of a claim shall not bring an action on the claim unless the claim is first made as provided in this chapter.

Comment. Section 9150 restates former Probate Code Section 716(a) without substantive change.

CROSS-REFERENCES

Definitions

Claim § 9000

§ 9151. Enforcement of security interest

9151. (a) The holder of a mortgage or lien, including but not limited to a judgment lien, may bring an action to enforce the lien against the property subject to the lien, whether or not a claim is first made, if in the complaint the holder of the lien expressly waives all recourse against any other property of the estate.

(b) Notwithstanding subdivision (a), no attorney's fees shall be recovered in the action unless a claim is first made as provided in this part or the instrument that creates the mortgage or lien provides for attorney's fees.

Comment. Section 9151 restates former Probate Code 716(b)-(c), with the addition of a provision saving attorney's fees agreed to in the security instrument.

CROSS-REFERENCES

Definitions

Claim § 9000

Property § 62

§ 9152. Claim involving pending action

9152. (a) If an action is pending against the decedent at the time of death, the plaintiff shall make the claim in the same manner as if no action were pending. No recovery shall be had against the decedent's estate in the action except upon proof that the claim was made as provided in this part.

(b) Notwithstanding subdivision (a), if the claim is not made within the time for making a claim, the court may thereafter allow the claim to be made, upon the claimant's petition and notice of hearing given pursuant to Section [1200.5], if the court finds that the claim was not timely made because neither the claimant nor the claimant's attorney had actual knowledge of the decedent's death at least 15 days before expiration of the time for making a claim. Relief may not be granted unless the petition is filed within a reasonable time after discovery of decedent's death, and in any event within one year after expiration of the time for making a claim and before petition for final distribution has been filed. The claim shall be allowed on such terms as may be just and equitable, and is subject to the following conditions:

(1) Any property distributed pursuant to court order or any payment properly made before notice of the petition is served on the personal representative is not subject to the claim. The personal representative, distributee, or payee is not liable on account of the prior distribution or payment.

(2) If at the time of filing the petition assets of the estate have been paid to general creditors or distributed by order of preliminary distribution to beneficiaries, and it appears that the making and later establishment of the claim, in the circumstances, would cause or tend to cause unequal treatment between beneficiaries or creditors, then permission to make the claim shall be denied.

Comment. Section 9152 restates portions of former Probate Code Section 709 without substantive change.

GROSS-REFERENCES

Definitions

Beneficiary § 24
Claim § 9000
Court § 29
Order § 53
Personal representative § 58
Property § 62
Verification required § 7203

§ 9153. Claim for injury or death not involving pending action

9153. (a) If a claim for damages for injuries to, or death of, a person is not made within the time for making a claim, and no action is pending against the decedent at the time of death, the court shall permit the claim to be made upon application of the claimant not later than one year after accrual of the claimant's cause of action, and upon such notice and hearing, if any, as the court may order. The court shall impose reasonable conditions upon the making of the claim to avoid unequal treatment between beneficiaries or creditors. The court shall, if necessary, appoint or reappoint a personal representative.

(b) Any property distributed pursuant to court order or any payment properly made before the notice of application is not subject to the claim. The personal representative, distributee, or payee is not liable on account of the prior distribution or payment.

(c) This section is not applicable to claims of public entities under Section 9251.

Comment. Section 9153 restates former Probate Code Section 720 without substantive change.

CROSS-REFERENCES

Definition

Beneficiary § 24
Claim § 9000
Court § 29
Personal representative § 58

NOTE. Interrelation of this section with CCP § 353 is under study.

§ 9154. Claim covered by insurance

9154. (a) Notwithstanding any other provision of law and without prior court approval, the making of a claim is not required and a civil action commenced before or after the death of the decedent may be maintained by a claimant to establish, to the limits of the insurance protection only, a liability of the decedent for which the decedent was protected by liability insurance.

(b) The action by the claimant shall name as the defendant "Estate of (name of decedent), Deceased." Summons shall be served upon the insurer. Further proceedings shall be in the name of the estate, but otherwise shall be conducted in the same manner and have the same effect as if the action were against the personal representative. For good cause, the court in which the civil action is pending, upon motion of an interested person or upon its own motion, may order the appointment and substitution of a personal representative as the defendant.

(c) The insurer may deny or otherwise contest its liability by cross-complaint in the action or by an independent action against the claimant, but the judgment on the cross-complaint or in the independent action does not adjudicate rights by or against the estate.

(e) A judgment in favor of the claimant in an action pursuant to this section is enforceable only from the insurance protection and does not create a lien upon any property of the estate.

(f) The remedies of this section are cumulative, and may be pursued concurrently with other remedies.

Comment. Section 9154 restates former Probate Code Sections 707(b), 709.1, and 721, and a portion of former Probate Code Section 709, with the following changes:

(1) The provisions are applied uniformly to actions pending at the death of the decedent and actions commenced after the decedent's death.

(2) Court approval is not required before the plaintiff may commence an action against the estate.

(3) The insurer need not have accepted the defense of the cause and made an appearance in a pending action.

(4) The estate of the decedent need not otherwise qualify for Section 13100 treatment.

Section 9154 applies in any case where there is a claim for damages for which the decedent was insured, whether for injury to or death of a person caused by the wrongful act or neglect of the decedent, or otherwise. This section applies where the amount of damages sought in the action does not exceed the maximum amount of the insurance or where recovery in excess of the maximum amount is waived. If the amount of damages sought exceeds the insurance policy limits, a claim is necessary with respect to the amount in excess.

Nothing in Section 9154 affects any applicable statutes of limitation relating to the action. Cf. Code Civ. Proc. § 353.

CROSS-REFERENCES

Definitions

Claim § 9000

Court § 29

Interested person § 48

Personal representative § 58

Property § 62

Note. The interrelation of this provision with CCP § 385(b) (pending proceedings) is under review.

Chapter 5. Claims by Surviving Spouse

§ 9200. Claim by surviving spouse for payment of debt of decedent

9200. (a) The surviving spouse may make a claim for payment of a debt of the deceased spouse to the extent the surviving spouse is personally liable for the debt pursuant to Section 13550. The claim shall be made before the filing of a petition for final distribution.

(b) The claim shall include all of the following:

(1) The reason the debt is not barred by Section 13552.

(2) A statement whether the debt remains unpaid or has been paid by the surviving spouse.

(3) An inventory of the separate property of the surviving spouse and any community property not administered in the estate and a statement of the value of the property less the amount of the liens and encumbrances upon the property, as of the date of death of the deceased spouse. The statement may identify any property that is exempt from enforcement of a money judgment.

Comment. Section 9200 restates former Probate Code Section 704.2 without substantive change.

GROSS-REFERENCES

Definitions

Claim § 9000

Property § 62

Surviving spouse § 78

Note. Subdivision (b)(3) will be reviewed in connection with Section 980.

§ 9201. Claim by surviving spouse for payment of debt of surviving spouse

9201. (a) The surviving spouse may make a claim for the payment of a debt of the surviving spouse for which property administered in the estate is liable. The claim shall be made before the filing of a petition for final distribution.

(b) The claim shall include all of the following:

(1) A statement whether the debt remains unpaid or has been paid by the surviving spouse.

(2) An inventory of the separate property of the surviving spouse and any community property not administered in the estate and a statement of the value of the property less the amount of the liens and encumbrances upon the property as of the date of death of the deceased spouse. The statement may identify any property that is exempt from enforcement of a money judgment.

Comment. Section 9201 restates former Probate Code Section 704.4 and broadens it consistent with general principles of liability of marital property for debts. See Civil Code §§ 5120.010-5122.

CROSS-REFERENCES

Definitions

Claim § 9000
Property § 62
Surviving spouse § 78

Note. Subdivision (b)(2) will be reviewed in connection with Section 980.

§ 9202. Treatment of claim of surviving spouse

9202. (a) A claim of the surviving spouse made pursuant to this article shall be allowed in the proportion allocated to the estate pursuant to Section [980].

(b) The claim may be discharged by any of the following means:

(1) Payment to the surviving spouse.

(2) Payment to the creditors of the surviving spouse or deceased spouse as identified in the claim.

(3) A credit allowed the spouse in the order allocating debts made pursuant to Section [980].

Comment. Section 9202 continues former Probate Code Section 713.5 without substantive change.

CROSS-REFERENCES

Definitions

Claim § 9000
Order § 53
Surviving spouse § 78

Chapter 6. Claims by Public Entities

§ 9250. Claim by public entity required

9250. (a) Except as otherwise provided in this article, a claim by a public entity shall be made within the time prescribed in this chapter. Any claim not so made is barred, including any lien imposed for the claim.

(b) As used in this section, "public entity" has the meaning prescribed in Section 811.2 of the Government Code.

Comment. Section 9250 restates former Probate Code Section 707.5(a) without substantive change. "Public entity" is defined in Government Code Section 811.2 to include the State, the Regents of the University of California, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the State.

CROSS-REFERENCES

Definitions

Claim § 9000

§ 9251. Claims governed by other statutes

9251. (a) A claim arising under a statute listed in subdivision (b) is barred only after written notice or request to the agency and expiration of the period provided in the applicable statute. If no written notice or request is made the claim is barred at the time otherwise provided in the statute.

(b)	Law or Code	Applicable Statute
	Sales and Use Tax Law (commencing with Section 6001 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
	Bradley-Burns Uniform Local Sales and Use Tax Law (commencing with Section 7200 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
	Transactions and Use Tax Law (commencing with Section 7251 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
	Motor Vehicle Fuel License Tax Law (commencing with Section 7301 of the Revenue and Taxation Code)	Section 7675.1 of the Revenue and Taxation Code
	Use Fuel Tax Law (commencing with Section 8601 of the Revenue and Taxation Code)	Section 8782.1 of the Revenue and Taxation Code
	Personal Income Tax Law (commencing with Section 17001 of the Revenue and Taxation Code)	Section 19266 of the Revenue and Taxation Code

Cigarette Tax Law (commencing with Section 30001 of the Revenue and Taxation Code)	Section 30207.1 of the Revenue and Taxation Code
Alcoholic Beverage Tax Law (commencing with Section 32001 of the Revenue and Taxation Code)	Section 32272.1 of the Revenue and Taxation Code
Unemployment Insurance Code	Section 1090 of the Unemployment Insurance Code
Welfare and Institutions Code	Section 7277.1 of the Welfare and Institutions Code

Comment. Section 9251 continues former Probate Code Section 707.5(b) without substantive change.

CROSS-REFERENCES

Definitions

Claim § 9000

§ 9252. Limitation on application of chapter

9252. This chapter does not apply to liability for the restitution of amounts illegally acquired through the means of any fraudulent, false, or incorrect claim or representation, or any forged or unauthorized endorsement.

Comment. Section 9252 continues former Probate Code Section 707.5(e) without substantive change.

§ 9253. Priority of claims not affected by chapter

9253. Except as provided in Section 9254, nothing in this chapter shall be construed to affect the order of priority of claims provided for under other provisions of law.

Comment. Section 9253 continues former Probate Code Section 707.5(d) without substantive change.

CROSS-REFERENCES

Definitions

Claim § 9000

§ 9254. Claim by Director of Health Services

9254. (a) If the decedent has received or may have received health care under the provisions of Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, a beneficiary, the personal representative, or a person in possession of property of the decedent shall give the Director of Health Services notice of the decedent's death no later than 90 days after the date of death. The notice shall be given by mail addressed to the director at the Sacramento office of the director.

(b) A notice given pursuant to this section shall include a copy of the decedent's death certificate.

(c) The director has four months after notice is given in which to make a claim. If assets of the estate have been distributed, the director is entitled to a claim against the distributees to the full extent of the director's claim, or each distributee's share of the distributed assets, whichever is less. The director's entitlement against distributees shall include interest at a rate equal to that earned in the Pooled Money Investment Fund from the date of distribution or the date of making the claim by the director, whichever is later, plus other accruing costs as in the case of enforcement of a money judgment.

(d) Failure to comply with the provisions of this section does not affect the validity of any proceeding under this division.

Comment. Section 9254 continues former Section 700.1 without substantive change.

CROSS-REFERENCES

Definitions

Beneficiary § 24
Claim § 9000
Personal representative § 58
Property § 62
Mailing § 7150

NOTE. This section and other special notice provisions will be cross-referenced in the general statutes on notice.

Chapter 7. Allowance and Rejection of Claims

§ 9300. Procedure by personal representative

9300. (a) Upon service of a copy of the claim on the personal representative, the personal representative shall allow or reject it, in whole or in part.

(b) The allowance or rejection shall be in writing filed with the clerk. The allowance or rejection shall contain the following information:

- (1) Name of claimant.
- (2) Total amount of claim.
- (3) Date of issuance of letters.
- (4) Date of death.
- (5) Date claim was served on personal representative.
- (6) Estimated value of estate.
- (7) Amount allowed or rejected by personal representative.
- (8) Whether personal representative is authorized to act under the Independent Administration of Estates Act.

(c) The Judicial Council may prescribe the form of an allowance or rejection, which need not satisfy the requirements of this section. Use of a form prescribed by the Judicial Council is deemed to satisfy the requirements of this section.

Comment. Section 9300 supersedes portions of former Probate Code Sections 710, 711, and 714.

GROSS-REFERENCES

Definitions

Claim § 9000
Clerk § 27
Court § 29
Letters § 52
Personal representative § 58
Independent Administration of Estates Act § 10400 et seq.

§ 9301. Procedure by court

9301. If the personal representative is not authorized to act under the Independent Administration of Estates Act:

(a) Immediately upon the filing of the allowance of a claim, the clerk shall present the claim and allowance to the court for approval or rejection.

(b) Upon presentation of a claim and allowance to the court, the court may, in its discretion, examine the claimant and others on oath and receive any evidence touching the validity of the claim. The court shall indorse upon the claim approval or rejection, and the date of the approval or rejection.

Comment. Section 9301 supersedes portions of former Probate Code Sections 708, 710, 711, and 713.

CROSS-REFERENCES

Actions at chambers § 7123

Definitions

Claim § 9000

Clerk § 27

Court § 29

Personal representative § 58

Independent Administration of Estates Act § 10400 et seq.

Note. The Commission has received a copy of a letter from Judge Harlan K. Veal of the San Mateo County Superior Court, who states, "Having sat as Probate Judge here in San Mateo County for the past ten months, it appears to me that there is a great waste of judicial time and energy and a correlative waste of county clerk's time and energy involved in the filing of creditor's claims with the county clerks and their presentation to the probate judge for approval or disapproval. I find myself with upwards of a hundred of these needing to be signed each day, knowing little or nothing about the bona fides of the claim, its allowance or rejection by the executor/administrator and uselessly wasting time completing and signing the forms. The deputy county clerks thereafter have to waste time simply building up a file of what is really irrelevant paper." He concludes that, "The only places I see a continuing need for court approval or rejection of the claims are where the claimant is the executor, administrator, attorney for the executor or administrator and had previously represented the deceased, or a judge of the court before whom the estate is pending (in which latter instance the approval or rejection should be by a different judge as is already provided in Section 704)."

These thoughts are echoed in a letter we have received from David J. Erwin, a Palm Springs attorney, who notes that the superior court judges in his area have also raised the question of the need of presenting routine claims to the judge for approval. The personal representative "in most if not all instances has more knowledge and information with regard to the claim than the Judge. I wonder if any thought or consideration has been given to the elimination of approval by a Judge in routine matters."

§ 9302. Effect of statute of limitations

9302. (a) The making of a claim does not toll the statute of limitations otherwise applicable to the claim except during the time prescribed in Section 9305.

(b) A claim barred by the statute of limitations otherwise applicable to the claim may not be allowed by the personal representative or approved by the court.

(c) The allowance of a claim by the personal representative or approval by the court tolls the statute of limitations otherwise applicable to the claim during the administration of the estate.

Comment. Subdivision (a) of Section 9302 codifies existing case law. See, e.g., Nally v. McDonald, 66 Cal. 530, 6 Pac. 390 (1885). Subdivisions (b) and (c) restate the first and third sentences of former Probate Code Section 708 without substantive change.

CROSS-REFERENCES

Actions at chambers § 7123

Definitions

Claim § 9000

Court § 29

Personal representative § 58

§ 9303. Allowed and approved claims

9303. (a) A claim allowed by the personal representative or approved by the court shall be included among the acknowledged debts of the estate, to be paid in the course of administration.

(b) The validity of an allowed or approved claim may be contested by any interested person at any time before settlement of the account of the personal representative in which it is first reported as an allowed and approved claim. This subdivision does not apply to a claim established by a judgment.

Comment. Section 9303 restates the first sentence of former Section 713 without substantive change. For claims established by judgments, see Chapter 8 (commencing with Section 9350).

CROSS-REFERENCES

Definitions

Claim § 9000

Court § 29

Interested person § 48

Personal representative § 58

NOTE. Subdivision (a) may be moved to payment of claims, or made a separate section.

§ 9304. Partial allowance

9304. (a) The personal representative may allow, or the court may approve, a claim in part. The allowance or approval shall state the amount for which the claim is allowed or approved.

(b) A claimant who refuses to accept the amount allowed or approved in satisfaction of the claim may bring an action on the claim in the manner prescribed in Section 9306. The claimant shall recover no costs in the action unless the claimant recovers a greater amount than that allowed or approved.

Comment. Section 9304 continues the substance of former Probate Code Section 717.

CROSS-REFERENCES

Definitions

Claim § 9000

Court § 29

Personal representative § 58

§ 9305. Failure of personal representative or court to act

9305. If within 30 days after a claim is made the personal representative or court has refused or neglected to act on the claim, the refusal or neglect may, at the option of the claimant, be deemed equivalent to a rejection on the 30th day.

Comment. Section 9305 supersedes the first sentence of former Probate Code Section 712. Section 9304 substitutes a 30-day period for the 10-day period formerly provided.

CROSS-REFERENCES

Definitions

Claim § 9000

Court § 29

Personal representative § 58

NOTE. The comparable provision of the Civil Code will be conformed to the change in this section from 10 to 30 days.

§ 9306. Action on rejected claim

9306. (a) A rejected claim is barred unless the claimant brings an action on the claim or the matter is referred to a referee or to arbitration, within the following times, excluding the time during which there is a vacancy in the administration:

(1) If the claim is then due, three months after the date of service of the notice of rejection.

(2) If the claim is not then due, within three months after it becomes due.

(b) Within 10 days after the filing of the complaint the plaintiff shall file with the clerk in the estate proceedings a notice of the pendency of the action. Notice of the filing of the pendency of the action shall be mailed to the personal representative and proof of mailing filed with the original notice.

(c) Any property distributed pursuant to court order or any payment properly made before the notice is filed and mailed is not subject to the claim. The personal representative, distributee, or payee is not liable on account of the prior distribution or payment.

(d) If the claimant fails to recover, the claimant shall pay all costs, including reasonable attorney's fees, to be fixed by the court in which the action is brought.

Comment. Subdivisions (a)-(c) of Section 9306 restate a portion of the first sentence and the second, third, and fourth sentences of former Probate Code Section 714 and of former Probate Code Section 715, except that the time after which an action on a rejected claim that is not yet due must be brought is increased from two months to three months. Subdivision (d) generalizes a provision of former Probate Code Section 703.

CROSS-REFERENCES

Definitions

Claim § 9000

Clerk § 27

Personal representative § 58

Note. In the past the Commission has received suggestions from several of bar associations that it would be useful to give the probate court jurisdiction to hear a civil action on a rejected claim. The Commission requested further information on existing law and practice in this area. Existing law and practice in both probate and guardianship and conservatorship is that the probate court does not have jurisdiction. Our new trust statute would give the court

having jurisdiction of the internal affairs of the trust concurrent jurisdiction over "actions and proceedings by or against creditors or debtors of trusts." The Commission has previously made a decision to parallel the trust jurisdictional provisions in probate, which would pick up the concurrent jurisdiction over creditor claims. Unless the Commission changes this decision, we will add a cross-reference to the Comment noting the concurrent jurisdiction of the probate court in this area.

§ 9307. Reference to determine disputed claim

9307. If the personal representative doubts the correctness of a claim, or has rejected a claim in whole or in part, or has failed to act on the claim within the time provided in Section 9304, the personal representative may do either of the following:

(a) Enter into an agreement in writing with the claimant to refer the matter in controversy to a commissioner or referee who is regularly attached to the court and designated in the agreement or to a judge pro tempore designated in the agreement. The agreement shall be filed with the clerk, who shall thereupon, with the approval of the court, enter an order referring the matter to the designated person. The commissioner or referee shall have the powers of a judge pro tempore. The designated person shall proceed promptly to hear and determine the matter in controversy by summary procedure, without any pleadings, discovery, or jury trial. The designated person shall make a statement of decision and cause a copy of the statement of decision to be mailed promptly to the parties. Judgment shall be entered on the statement of decision and shall be as valid and effective as if it had been rendered by a judge of the court in an action against the personal representative commenced by ordinary process.

(b) Enter into an agreement in writing with the claimant that a judge sitting in probate, pursuant to the agreement and with the written consent of the judge, both filed with the clerk, may hear and determine the matter in controversy pursuant to the procedure provided in subdivision (a). The agreement and consent shall be filed within the time specified in Section 9306 for bringing an independent action.

Comment. Section 9307 restates former Probate Code Section 718(2), replacing the written decision with a statement of decision. See Code Civ. Proc. § 632.

CROSS-REFERENCES

Definitions

Claim § 9000
Clerk § 27
Court § 29
Personal representative § 58

NOTE. A conforming change will be made in Section 2405 (guardianship and conservatorship).

§ 9308. Submission of claim to arbitration

9308. The personal representative may enter into an agreement in writing with a person having a disputed claim against the decedent or the estate, or with a person against whom the decedent or the estate has a disputed claim, to submit the matter in controversy to arbitration under Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure. Such an agreement is not effective unless it is first approved by the court and a copy of the approved agreement is filed in the proceedings.

Comment. Section 9308 is drawn from Section 2406 (guardianship and conservatorship).

CROSS-REFERENCES

Definitions

Claim § 9000
Court § 29
Person § 56
Personal representative § 58

Note. This section applies to actions by as well as against the estate, and may be relocated.

Chapter 8. Claims Established by Judgment

§ 9350. Money judgment against decedent

9350. (a) Subject to Section 9353, after the death of the decedent, the following judgments are not enforceable under the Code of Civil Procedure against the estate of the decedent but are payable in the course of administration:

(1) A judgment upon a claim for money rendered against the decedent during the decedent's lifetime.

(2) A judgment upon a claim for money rendered against a decedent who died after trial and submission of the case to a judge sitting without a jury for decision or after a verdict.

(3) A judgment rendered against the personal representative upon a claim for money against the estate of the decedent.

(b) Except as provided in Section 9351, a judgment referred to in subdivision (a) shall be filed or presented in the same manner as other claims.

Comment. Section 9350 continues former Probate Code Section 730(a)-(b) without substantive change. For an exception to the rule of Section 9350, see Section 9353.

CROSS-REFERENCES

Definitions

Claim § 9000

Personal representative § 58

§ 9351. Money judgment against personal representative

9351. When a judgment rendered against a personal representative upon a claim for money becomes final, it conclusively establishes the validity of the claim for the amount of the judgment. The judgment shall provide that it is payable in the course of administration. An abstract of the judgment shall be filed in the administration proceedings.

Comment. Section 9351 continues former Probate Code Section 731 without substantive change.

CROSS-REFERENCES

Definitions

Claim §9000

Personal representative § 58

§ 9352. Enforcement of non-money judgment

9352. (a) Notwithstanding the death of the decedent, a judgment for the possession of property or a judgment that requires a sale of property may be enforced under the Code of Civil Procedure. Nothing in this subdivision authorizes enforcement under the Code of Civil Procedure against any property of the estate of the decedent other than the property described in the judgment for possession or sale.

(b) After the death of the decedent, any demand for money against the estate that is not satisfied from the property described in the judgment for possession or sale shall be made as a claim in the same manner as other claims and is payable in the course of administration.

Comment. Section 9352 continues former Probate Code Section 730(d) without substantive change.

CROSS-REFERENCES

Definitions

Claim § 9000

Property § 62

§ 9353. Property under levy of execution

9353. If any property of the decedent is levied upon under a writ of execution before the decedent dies, the property levied upon may be sold or collected to satisfy the judgment. The officer making the sale or collection shall account to the personal representative for any surplus. If the judgment is not so satisfied, the balance of the judgment remaining unsatisfied is payable in the course of administration.

Comment. Section 9353 continues former Probate Code Section 730(c) without substantive change.

CROSS-REFERENCES

Definitions

Personal representative § 58

Property § 62

§ 9354. Converting attachment lien to judgment lien

9354. (a) Pursuant to subdivision (b), an attachment lien may be converted into a judgment lien upon property of the estate subject to the attachment lien in either of the following cases:

(1) Where the judgment debtor dies after entry of judgment in an action in which the property was attached.

(2) Where a judgment is entered after the death of the defendant in an action in which the property was attached.

(b) To convert the attachment lien into a judgment lien, after entry of judgment in the action in which the property was attached and prior to the expiration of the attachment lien the levying officer shall serve an abstract of the judgment and a notice that the attachment lien has become a judgment lien upon the person holding property pursuant to the attachment or shall record or file an abstract of the judgment and a notice that the attachment lien has become a judgment lien in any office where the writ and notice of attachment are recorded or filed. If the attached property is real property, the plaintiff or the plaintiff's attorney may record the required abstract and notice with the same effect as if recorded by the levying officer. The judgment lien has the same priority as the attachment lien.

(c) After the death of the decedent, any members of the decedent's family who were supported in whole or in part by the decedent may claim an exemption provided in Section 487.020 of the Code of Civil Procedure for property levied upon pursuant to the writ of attachment if the right to the exemption exists at the time the exemption is claimed. The personal representative may claim the exemption on behalf of such members of the decedent's family. The claim of exemption may be made at any time prior to the time the abstract and notice has been served, recorded, or filed under subdivision (b) with respect to the property claimed to be exempt. The claim of exemption shall be made in the same manner as an exemption is claimed under Section 482.100 of the Code of Civil Procedure.

Comment. Section 9354 continues former Probate Code Section 732 without substantive change.

CROSS-REFERENCES

Definitions

Person § 56
Personal representative § 58
Property § 62
Real property § 68

DISPOSITION OF REPEALED SECTIONS

Probate Code § 700 (repealed)

Comment. Subdivision (a) of former Section 700 is superseded by Estate and Trust Code Sections 9001 (notice to creditors), 9050 (four month claim period), 9010 (how claim is made), and 58 ("personal representative" defined). Subdivision (b) is restated in Estate and Trust Code Section 9052 (time not extended by vacancy in office) without substantive change. Subdivision (c) is restated in Estate and Trust Code Section 9050(b) (four month claim period) without substantive change.

Probate Code § 700.1 (repealed)

Comment. Former Section 700.1 is restated in Estate and Trust Code Sections 9254 (claim by Director of Health Services) and 7150 (mailing) without substantive change.

Probate Code § 703 (repealed)

Comment. Former Section 703 is restated in Estate and Trust Code Sections 9103 (where personal representative is creditor) and 9307 (action on rejected claim) without substantive change.

Probate Code § 704 (repealed)

Comment. Former Section 704 is not continued. A judge who is a creditor is disqualified. Estate and Trust Code Section 7062 (disqualification of judge).

Probate Code § 704.2 (repealed)

Comment. Former Section 704.2 is restated in Estate and Trust Code Sections 9200 (claim by surviving spouse for payment of debts of decedent) and 9100 (how claim is made) without substantive change.

Probate Code § 704.4 (repealed)

Comment. Former Section 704.4 is restated in Estate and Trust Code Section 9201 (claim by surviving spouse for payment of debt of surviving spouse) and broadened for consistency with general principles of liability of marital property for debts.

Probate Code § 705 (repealed)

Comment. Former Section 705 is restated in Section 9101 (documentary support of claim) without substantive change.

Probate Code § 706 (repealed)

Comment. Former Section 706 is restated in Section 9102 (claim founded upon written instrument) without substantive change.

Probate Code § 707 (repealed)

Comment. The first sentence of subdivision (a) of former Section 707 is continued in Estate and Trust Code Sections 9000 ("claim" defined) and 9002 (claim requirement) without substantive change. See also Estate and Trust Code Section 9050 (four month claim period). The substance of the second sentence is continued in Estate and Trust Code Sections 9002(b) (claim requirement) and 9054 (late claims). The remainder of subdivision (a) is restated and limited in Estate and Trust Code Section 9054 (late claims), except for the last sentence, which is not continued. See Gov't Code §§ 69845-6 (register of actions, preservation of records).

Subdivision (b) is superseded by Estate and Trust Code Section 9154 (claim covered by insurance).

Probate Code § 707.5 (repealed)

Comment. Subdivision (a) of former Section 707.5 is continued in Estate and Trust Code Section 9250 (claim by public entity required) without substantive change. Subdivision (b) is continued in Estate and Trust Code Section 9251 (claims governed by other statutes) without substantive change. Subdivision (c) is restated in Estate and Trust Code Section 9000(a)(3) ("claim" defined) without substantive change. Subdivision (d) is continued in Estate and Trust Code Section 9253 (priority of claims not affected by chapter) without substantive change. Subdivision (e) is continued in Estate and Trust Code Section 9252 (limitation on application of chapter) without substantive change.

Probate Code § 708 (repealed)

Comment. The first sentence of former Section 708 is restated in Estate and Trust Code Section 9302(b) (effect of statute of limitations) without substantive change. The second sentence is continued in Estate and Trust Code Section 9301(b) (procedure by court) without substantive change. The third sentence is restated in Estate and Trust Code Section 9302(c) (effect of statute of limitations) without substantive change.

Probate Code § 709 (repealed)

Comment. Former Section 709 is restated in Estate and Trust Code Sections 9152 (claim involving pending action) and 9154 (claim covered by insurance).

Probate Code § 709.1 (repealed)

Comment. Former Section 709.1 is superseded by Estate and Trust Code Section 9154 (claim covered by insurance).

Probate Code § 710 (repealed)

Comment. The first two sentences of former Section 710 are not continued. The third sentence is superseded by Estate and Trust Code Section 9300 (procedure by personal representative). The last two sentences are superseded by Estate and Trust Code Section 9301 (procedure by court).

Probate Code § 711 (repealed)

Comment. The first sentence of former Section 711 is superseded by Estate and Trust Code Section 9300 (procedure by personal representative). The second sentence is superseded by Estate and Trust Code Section 9301 (procedure by court).

Probate Code § 712 (repealed)

Comment. The first sentence of former Section 712 is superseded by Estate and Trust Code Section 9305 (failure of personal representative or court to act). The second sentence is not continued; the procedure was not used. The last sentence is restated in Section 9053 (where personal representative acts on claim after expiration of time) without substantive change.

Probate Code § 713 (repealed)

Comment. The first sentence of former Section 713 is restated in Estate and Trust Code Section 9303 (allowed and approved claims). The second sentence is not continued. See Gov't Code §§ 69845-6 (register of actions, preservation of records).

Probate Code § 713.5 (repealed)

Comment. Former Section 713.5 is continued in Estate and Trust Code Section 9202 (treatment of claim of surviving spouse) without substantive change.

Probate Code § 714 (repealed)

Comment. The first sentence of former Section 714 is superseded by Estate and Trust Code Section 9300 (procedure by personal representative). The substance of a portion of the first sentence and the second, third, and fourth sentences is restated in Estate and Trust Code Section 9306 (action on rejected claim). The fifth sentence is not continued.

Probate Code § 715 (repealed)

Comment. Former Section 715 is restated in Estate and Trust Code Section 9306(a) (action on rejected claim).

Probate Code § 716 (repealed)

Comment. Subdivision (a) of former Section 716 is restated in Estate and Trust Code Sections 9150 (claim prerequisite to action) and 9100 (how claim is made). The substance of subdivisions (b) and (c) is restated in Estate and Trust Code Section 9151 (enforcement of security interest).

Probate Code § 717 (repealed)

Comment. Former Section 717 is continued in Estate and Trust Code Section 9304 (partial allowance) without substantive change.

Probate Code § 718 (repealed)

Comment. Subdivision (1) of former Section 718 is not continued. Subdivision (2) is continued in Estate and Trust Code Section 9307 (reference to determine disputed claim) without substantive change.

Probate Code § 718.5 (repealed)

Comment. [To be disposed of in another context.]

Probate Code § 718.6 (repealed)

Comment. [To be disposed of in another context.]

Probate Code § 718.7 (repealed)

Comment. [To be disposed of in another context.]

Probate Code § 719 (repealed)

Comment. [To be disposed of in another context.]

Probate Code § 720 (repealed)

Comment. Former Section 720 is restated in Estate and Trust Code Section 9153 (claim for injury or death not involving pending action) without substantive change.

Probate Code § 721 (repealed)

Comment. Former Section 721, with the exception of subdivision (b), is restated in Estate and Trust Code Section 9154 (claim covered by insurance). Subdivision (b) is superseded by the introductory portion of Estate and Trust Code Section 9154(a).

Probate Code § 730 (repealed)

Comment. Subdivisions (a) and (b) of former Section 730 are continued in Estate and Trust Code Section 9350 (money judgment against decedent) without substantive change. Subdivision (c) is continued in Estate and Trust Code Section 9353 (property under levy of execution) without substantive change. Subdivision (d) is continued in Estate and Trust Code Section 9352 (enforcement of non-money judgment) without substantive change.

Probate Code § 731 (repealed)

Comment. Former Section 731 is continued in Estate and Trust Code Section 9351 (money judgment against personal representative) without substantive change.

Probate Code § 732 (repealed)

Comment. Former Section 732 is continued in Estate and Trust Code Section 9354 (converting attachment lien to judgment lien) without substantive change.

Probate Code § 733 (repealed)

Comment. [To be disposed of in another context.]

Probate Code § 736 (repealed)

Comment. [To be disposed of in another context.]

Probate Code § 737 (repealed)

Comment. [To be disposed of in another context.]

Probate Code § 738 (repealed)

Comment. [To be disposed of in another context.]