

Memorandum 87-98

Subject: Study L-2007 - Conforming Changes for Repeal of Division 3

Attached to this memorandum are miscellaneous conforming revisions associated with the repeal of Division 3, to be included in the Commission's 1988 probate legislation. The text of the revisions in bill form is set out in Exhibit 1. The comments to these sections are set out in Exhibit 2. These provisions are technical revisions, most of them involving renumbering or adjustment of terminology. In many cases, the unaffected text of the section is not set out, but is indicated by ellipsis ("..."). Similarly, the text of some repealed sections is not repeated here.

You have probably seen some of these revisions before. Substantive conforming changes that have been considered and approved to print in connection with previous approval of a Commission recommendation for 1988 are not included in this material. We anticipate that when we do the complete job of shaping up the new Probate Code in final form using consistent terminology and the like for the 1989 legislative session, we will also find other more substantive conforming changes required both within the Probate Code and in other codes.

We do not plan to review the technical changes attached to this memorandum at the meeting unless someone detects a problem.

Respectfully submitted,

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Staff Counsel

EXHIBIT 1

CONFORMING CHANGES

SEC. . Section 63 of the Civil Code is amended to read:

63. An emancipated minor shall be considered as being over the age of majority for the following purposes:

...

(13) Make an election referred to in Section 13502 of, or an election and agreement referred to in Section ~~649.1~~ of 13503 of, the Probate Code.

...

SEC. . Section 990 of the Civil Code is amended to read:

990. ...

(d)(4) The rights of the deceased personality's children and grandchildren are in all cases divided among them and exercisable ~~on a per-stirpes basis~~ in the manner provided in Section 240 of the Probate Code according to the number of the deceased personality's children represented; the share of the children of a dead child of a deceased personality can be exercised only by the action of a majority of them. ~~For the purposes of this section, "per-stirpes" is defined in Section 240 of the Probate Code.~~

...

SEC. . Section 1086 of the Civil Code is amended to read:

1086. As used in this article, the following terms have the meanings stated in this section:

...

~~(4) A "probate listing" is a contract conforming to Section 760 of the Probate Code.~~

...

SEC. . Section 1089.5 is added to the Civil Code, to read:

1089.5. Subject to the limitations, conditions, and requirements of Chapter 18 (commencing with Section 10000) of Part 5 of Division 7 of the Probate Code, this article applies to property defined in Section 1086 that is covered by a contract described in Section 10150 of the Probate Code.

SEC. . Section 2417 of the Civil Code is amended to read:

2417. ...

(e) Proceedings under this article shall be governed, whenever possible, by the provisions of this article, and where the provisions of this article do not appear applicable, the provisions of Division 3 (~~commencing with Section 300~~) 7 (commencing with Section 7000) of the Probate Code shall apply.

...

SEC. . Section 153 of the Code of Civil Procedure is amended to read:

153. Except as otherwise expressly provided by law, the seal of a court need not be affixed to any proceeding therein, or to any document, except to the following:

~~1. To a writ;~~

~~2. To a summons;~~

~~3. To a warrant of arrest;~~

~~4. To the certificate of probate of a will or of the appointment of an executor, administrator, guardian, or conservator.~~

(a) A writ.

(b) A summons.

(c) A warrant of arrest.

SEC. . Section 166 of the Code of Civil Procedure is amended to read:

166. (a) The judge or judges of the superior, municipal and justice courts may, at in chambers, in the matters within the jurisdiction of their respective courts:

(1) Grant all orders and writs which are usually granted in the first instance upon an ex parte application, and ~~may, at chambers,~~ hear and dispose of such orders and writs; ~~and may also, at chambers,~~ appoint ~~appraisers,~~ referees, require and receive inventories and accounts to be filed, order notice of settlement of supplementary accounts, suspend the powers of ~~executors, administrators~~ personal representatives, guardians, or conservators in the cases allowed by law, appoint special administrators, grant ~~special letters of administration~~ and letters of temporary guardianship or conservatorship, approve or reject claims, and direct the issuance from

the court of all writs and process necessary in the exercise of their powers in matters of probate.

(2) Hear and determine all motions made pursuant to Section 657 or 663.

(3) Hear and determine all uncontested actions, proceedings, demurrers, motions, petitions, applications, and other matters pending before the court other than actions for dissolution of marriage, for legal separation, or for a judgment of nullity of the marriage, and except also applications for confirmation of sale of real property in probate proceedings.

(4) Hear and determine motions to tax costs of enforcing a judgment.

(5) Approve bonds and undertakings.

(b) A judge may, out of court, anywhere in the state, exercise all the powers and perform all the functions and duties conferred upon a judge as contradistinguished from the court, or which a judge may exercise or perform at in chambers.

SEC. . Section 580a of the Code of Civil Procedure is amended to read:

580a. ... Upon the application of either party made at least 10 days before the time of trial the court shall, and upon its own motion the court at any time may, appoint one of the probate ~~tax~~ referees provided for by law to appraise the property or the interest therein sold as of the time of sale. ...

SEC. . Section 904.1 of the Code of Civil Procedure is amended to read:

904.1. An appeal may be taken from a superior court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (h) and (i), (2) a judgment of contempt which is made final and conclusive by Section 1222, (3) a judgment on appeal from a municipal court or a justice court or a small claims court, or (4) a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition directed to a municipal court or a justice court or the judge or judges thereof which relates to a matter pending in the municipal or justice court. However, an

appellate court may, in its discretion, review a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition upon petition for an extraordinary writ.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(d) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(e) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(f) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining the right to redeem and directing an accounting.

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(j) From an order ~~or decree~~ made appealable by the provisions of the Probate Code.

SEC. . Section 1026 of the Code of Civil Procedure is amended to read:

1026. In (a) Except as provided in subdivision (b), in an action prosecuted or defended by an--executor,--administrator a personal representative, trustee of an express trust, guardian, conservator, or a person expressly authorized by statute, costs may be recovered as in an action by and or against a person prosecuting or defending in his the person's own right; but such costs must.

(b) Costs allowed under subdivision (a) shall, by the judgment, be made chargeable only upon the estate, fund, or party represented, unless the court directs the same costs to be paid by the plaintiff--or defendant, fiduciary personally, for mismanagement or bad faith in the action or defense.

SEC. . Section 1421 of the Code of Civil Procedure is amended to read:

1421. Whenever the Attorney General is informed that any estate has escheated or is about to escheat to the State, or that the property involved in any action or special proceeding has escheated or is about to escheat to the State, ~~he~~ the Attorney General may commence an action on behalf of the State to determine its rights to ~~said~~ the property or may intervene on its behalf in any action or special proceeding affecting any ~~such~~ the estate and contest the rights of any claimant or claimants thereto. ~~He~~ The Attorney General may also apply to the superior court or any judge thereof for an order directing the county treasurer to deposit in the State Treasury all money, and to deliver to the Controller for deposit in the State Treasury, all other personal property, in ~~his~~ the possession of the county treasurer, which may become payable to the State Treasury pursuant to Section ~~1148~~ 7643 of the Probate Code.

SEC. . Section 1441 of the Code of Civil Procedure is amended to read:

1441. Money or other property distributed to the State under ~~Sections 1027 or 1144~~ Chapter 6 (commencing with Section 11900) of Part 10 of Division 7 of the Probate Code, if not claimed within five years from the date of the ~~deeree-making-such~~ order for distribution, as provided in Chapter 3, is permanently escheated to the State without further proceeding; ...

SEC. . Section 1443 of the Code of Civil Procedure is amended to read:

1443. Notwithstanding any other provision of law, all money or other property paid or delivered to the state or any officer or employee thereof under the provisions of Section ~~738, 1027, 1144, 1148,~~ or 6800 7643 or 11428, Chapter 6 (commencing with Section 11900) of Part 10 of Division 7, or Section 6800, of the Probate Code, or under any other section of the Probate Code, or any amendment thereof adopted after the effective date of this section, shall be deemed to be paid or delivered for deposit in the State Treasury under the provisions of this article, and shall be transmitted, received, accounted for, and disposed of, as provided in this title.

SEC. . Section 1449 of the Code of Civil Procedure is amended to read:

1449. Notwithstanding any other provision of law, all presumptively abandoned money or other property paid or delivered to the Treasurer or Controller under the provisions of Section ~~1147.5~~ 7644 of the Probate Code shall be deemed to be paid or delivered for deposit in the State Treasury under the provisions of this article, and shall be transmitted, received, accounted for, and disposed of as provided in this title.

SEC. . Section 1913 of the Code of Civil Procedure is amended to read:

1913. The (a) Subject to subdivision (b), the effect of a judicial record of a sister state is the same in this state as in the state where it was made, except that it can only be enforced here in this state by an action or special proceeding,~~and except also that the~~

(b) The authority of a guardian, conservator, or committee, or of an executor or administrator, does not extend beyond the jurisdiction of the government under which such person was invested with authority, except to the extent expressly authorized by statute.

SEC. . Section 6950 of the Financial Code is amended to read:

6950. (a) When a savings account is held in any association or federal association by a person who dies while ~~a resident of another state or country~~ domiciled in a sister state or foreign nation, the account, together with additions and interest, or any part of it, shall be exempt from any taxation otherwise imposed by this state ~~and may,~~

(b) When a savings account is held in any association or federal association by a person who dies while domiciled in a sister state, the account, together with additions and interest, or any part of it, shall be paid to the administrator or executor appointed in the state or country where the account holder resided at the time of death sister state personal representative or other claimant under the Probate Code, provided the ~~administrator, executor~~ personal representative or other claimant has furnished the association or federal association with all of the documentation required under applicable provisions of the Probate Code and evidence of ownership of the account, if any, issued under Section 6652.

~~(b)~~ (c) Upon payment or delivery to the ~~administrator, executor,~~ personal representative or other claimant after receipt of the documents specified in subdivision ~~(a)~~ (b), the association or federal association is released and discharged to the same extent as if the payment or delivery had been made to a legally qualified ~~resident executor or administrator~~ local personal representative, and is not required to account for the application or disposition of the property.

SEC. . Section 62708.5 of the Food and Agricultural Code is amended to read:

62708.5. ...

(b) The ownership required by this section may be through a partnership, corporation, or other legally constituted business association so long as the entities are owned by the same person or persons, and there is at least 95 percent identity of ownership for each person with their ownership in the handler or producer. For purposes of this section a "person" or "persons" includes the spouse, or other persons of lineal consanguinity of the first or second degree or collateral consanguinity to the fourth degree ~~as defined in the Probate Code~~, and their spouses, and includes an adopted child the same as a natural child and kindred of the half blood equally with those of the whole blood of the owner and ownerships by persons so related shall be considered single ownership by one person. For purposes of this section, property pledged or hypothecated in any manner to others shall be considered "owned" so long as equitable ownership with management and control remain with the producer-handler.

...

SEC. . Section 12598 of the Government Code is amended to read:

12598. (a) The primary responsibility for supervising charitable trusts in California, for insuring compliance with trusts and articles of incorporation, and for protection of assets held by charitable trusts and public benefit corporations, resides in the Attorney General. The Attorney General has broad powers under common law and California statutory law to carry out these charitable trust enforcement responsibilities. These powers include, but are not limited to, charitable trust enforcement actions under all of the following:

(1) This article.

(2) ~~Chapter 1 (commencing with Section 2215) and Chapter 2 (commencing with Section 2250)~~ of Title 8 (commencing with Section 2223) of Part 4 of Division 3 of the Civil Code.

(3) Sections ~~328, 1080,~~ 8111, 11703, 15004, 15409, 15680 to 15685, 16060 to 16062, 16064, and 17200 to 17210, inclusive, of the Probate Code.

...

SEC. . Section 13944 of the Government Code is amended to read:

13944. (a) The board may investigate, inquire, and, if necessary, conduct hearings concerning property in the possession of the Treasurer which has escheated to the State from the estates of deceased persons pursuant to a judgment of escheat or pursuant to a distribution to the State under Section ~~1027~~ 11900 of the Probate Code.

(b) After investigation, inquiry, and hearing, the board may relieve the Treasurer from any liability arising from the possession of, and direct the Controller to sell, or authorize the Treasurer to destroy or otherwise dispose of, any such property as it deems proper.

SEC. . Section 27643 of the Government Code is amended to read:

27643. The board of supervisors may by ordinance require that the county counsel shall act as attorney for the public administrator in all cases in which he is executor, administrator with the will annexed, or administrator, where he has priority for appointment as established by law, including all cases under ~~Sections 1143 and 1144~~ Section 7660 of the Probate Code. However, in the case of a noncharter county or a charter county where there is no conflict with the county charter, the public administrator may employ private counsel (a) in those estates in which he is nominated and would not otherwise have priority, (b) for those estates in which he is appointed administrator with the will annexed, or administrator pursuant to ~~Chapter 6 (commencing with Section 480) of Division 3~~ Chapter 4 (commencing with Section 8400) of Division 7 of the Probate Code, and (c) in those estates in which he is appointed administrator with the will annexed for the reason the executor nominated in the will has refused to serve. In such matters where the county counsel furnishes representation the county counsel shall collect the attorney's fees allowed by law and pay them into the county treasury.

SEC. . Section 29616 of the Government Code is repealed.

~~29616. The publication of the semiannual report by the public administrator is a county charge.~~

SEC. . Section 69503 of the Government Code is amended to read:
69503. ...

(b) Notwithstanding any other provision of law relating to the destruction of court records, after complying with the requirements of subdivision (c), the county clerk may cause to be destroyed any will delivered to him or her pursuant to Section 320 8200 of the Probate Code, if a period of eight years has elapsed since the delivery of the will.

...

SEC. . Section 1289.4 of the Health and Safety Code is amended to read:

1289.4. A theft and loss program shall be implemented within 90 days after January 1, 1988. The program shall include all of the following:

...

(f) Inventory and surrender of personal effects and valuables following the death of a resident to the authorized representative in exchange for a signed receipt. Immediate ~~written~~ notice to the public administrator of the county upon the death of a resident without a ~~representative or known heirs as specified by Section 1145~~ known next of kin as provided in Section 7600.5 of the California Probate Code.

...

SEC. . Section 7902 of the Health and Safety Code is amended to read:

7902. Petitions for confirmation of sales shall be made to the superior court of the county or city and county in which such lands are situated, and the clerk of the court shall fix a day for and give notice of hearing in accordance with the provisions of ~~section 1200~~ Section 1230 of the Probate Code.

SEC. . Section 11580.3 of the Insurance Code is amended to read:

11580.3. When an insured entitled to recovery under uninsured motorists' coverage is a minor, an arbitration award upon his ~~the~~ minor's ~~claim shall be~~ is deemed to be a compromise and ~~shall be~~ is

governed by ~~Chapter 2 (commencing with Section 1430)~~ Part 8 (commencing with Section 3300) of Division 4 of the Probate Code; provided, however, that the court may disapprove said the award only on the grounds specified in Section 1286.2 of the Code of Civil Procedure.

SEC. . Section 100.5 of the Labor Code is amended to read:

100.5. Preferred claims for work performed or personal services rendered are provided for in Sections 1204, 1205, 1206, 1207, and 1208 of the Code of Civil Procedure, and ~~subdivision (6) of Section 950~~ Part 9 (commencing with Section 11400) of the Probate Code.

SEC. . Section 1035.05 of the Military and Veterans Code is amended to read:

1035.05. ...

(c) For the purpose of application to this section of the provisions of the Probate Code governing distribution of property, the home shall be deemed to be a beneficiary of the decedent.

SEC. . Section 653.5 of the Penal Code is repealed.

~~653.5. Any appraiser, appointed by virtue of Sections 605, 606, 607, and 609 of the Probate Code, who shall accept any fees, reward, or compensation other than that provided for by law, from any decedent, or from any other person, is guilty of a misdemeanor.~~

SEC. . Section 20 of the Probate Code is amended to read:

20. (a) Unless the provision or context otherwise requires and except as provided in subdivision (b), the definitions in this part govern the construction of ~~Division 1 (commencing with Section 1), Division 2 (commencing with Section 100), Chapter 22 (commencing with Section 1200) and Chapter 22.5 (commencing with Section 1280) of Division 3, Division 6 (commencing with Section 6100), Division 7 (commencing with Section 7000), Division 8 (commencing with Section 13000), Division 9 (commencing with Section 15000), Division 10 (commencing with Section 20100), and Division 11 (commencing with Section 21100)~~ this code.

(b) The definitions in this part do not apply to Division 4 (commencing with Section 1400) or Division 5 (commencing with Section 5100).

SEC. . Section 52 of the Probate Code is amended to read:

52. "Letters," as ":

(a) As used in Division 7 (commencing with Section 7000), means

letters testamentary, letters of administration, letters of administration with the will annexed, or letters of special administration.

(b) As it relates to a guardian or conservator, means letters of guardianship or conservatorship or temporary guardianship or conservatorship.

SEC. . Section 58 of the Probate Code is amended to read:

58. (a) "Personal representative" means executor, administrator, administrator with the will annexed, special administrator, successor personal representative, or a person who performs substantially the same function under the law of another jurisdiction governing the person's status.

(b) "General personal representative" excludes a special administrator, except a special administrator having the powers, duties, and obligations of a general personal representative under Section 465 8545.

SEC. . Section 104 of the Probate Code is amended to read:

104. Notwithstanding Section 100, community property held in a revocable trust described in Section ~~5113.5~~ 5110.150 of the Civil Code is governed by the provisions, if any, in the trust for disposition in the event of death.

SEC. . Section 260 of the Probate Code is amended to read:

260. Unless the provision or context otherwise requires, the words and phrases defined in this chapter govern the construction of this division part.

SEC. . Section 261 of the Probate Code is repealed.

~~261. "Account" means a contract of deposit of funds between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit, share account, and other like arrangement.~~

SEC. . Section 268 of the Probate Code is repealed.

~~268. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or other entity.~~

SEC. . Section 270 of the Probate Code is repealed.

~~270. "Totten trust account" means an account in the name of one or more parties as trustee for one or more beneficiaries where the~~

~~relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account. In a Totten trust account, it is not essential that payment to the beneficiary be mentioned in the deposit agreement. A Totten trust account does not include (1) a regular trust account under a testamentary trust or a trust agreement which has significance apart from the account or (2) a fiduciary account arising from a fiduciary relation such as attorney-client.~~

SEC. . Section 275 of the Probate Code is amended to read:

275. A beneficiary may disclaim any interest, in whole or in part, by filing a disclaimer as provided in this division part.

SEC. . Section 280 of the Probate Code is amended to read:

280.

(b) If a disclaimer made pursuant to this division part affects real property or an obligation secured by real property

SEC. . Section 283 of the Probate Code is amended to read:

283. A disclaimer is not a fraudulent conveyance transfer by the beneficiary under Title 2 (commencing with Section 3439) of Part 2 of Division 4 of the Civil Code.

SEC. . Section 284 of the Probate Code is amended to read:

284. A person who could file a disclaimer under this division part may instead file a written waiver of the right to disclaim. The waiver shall specify the interest to which the waiver applies. Upon being filed as provided in Section 280, the waiver is irrevocable and is binding upon the beneficiary and all persons claiming by, through, or under the beneficiary.

SEC. . Section 287 of the Probate Code is amended to read:

287. An interest created before January 1, 1984, that has not been accepted may be disclaimed after December 31, 1983, in the manner provided in this division part, but no interest that arose before January 1, 1984, in a person other than the beneficiary may be destroyed or diminished by any action of the disclaimant taken pursuant to this division.

SEC. . Section 288 of the Probate Code is amended to read:

288. This division part does not limit or abridge any right a person may have under any other law to assign, convey, or release any

property or interest, but after December 31, 1983, an interest that would otherwise be taken by a beneficiary may be declined, refused, renounced, or disclaimed only as provided in this division part.

SEC. . Section 295 of the Probate Code is amended to read:

295. Notwithstanding any other provision of this division part, if as a result of a disclaimer or transfer the disclaimed or transferred interest is treated pursuant to the provisions of Title 26 of the United States Code, as now or hereafter amended, or any successor statute thereto, and the regulations promulgated thereunder, as never having been transferred to the beneficiary, then the disclaimer or transfer is effective as a disclaimer under this division part.

SEC. . Section 2100 of the Probate Code is amended to read:

2100. Guardianships and conservatorships are governed by the provisions of Division 3 (commencing with Section 1000) and of this division . If no specific provision of this division is applicable, the provisions of ~~Division 3 (commencing with Section 300)~~ Division 7 (commencing with Section 7000) govern so far as they are applicable to like situations.

SEC. . Section 2320 of the Probate Code is amended to read:

2320. (a) Except as otherwise provided by statute:

(1) Every guardian and conservator shall furnish give a bond in the amount fixed by the court, conditioned upon the faithful execution of the duties of the office according to law to protect the ward or conservatee and all persons interested in the guardianship or conservatorship estate.

(2) Unless the court increases or decreases the amount upon a showing of good cause, the amount of ~~the bond shall be the lowest amount permitted under Section 541 for a bond given under that section by an authorized surety company~~ a bond given by an admitted surety insurer shall be the value of the personal property and the value of the probable annual gross income of all of the property in the guardianship or conservatorship estate.

(b) If the sureties on the bond are ~~individual persons~~ personal sureties, the bond shall be one approved by the court and shall be for twice the amount required for a bond given by an ~~authorized surety company~~ admitted surety insurer.

SEC. . Section 2325 of the Probate Code is amended to read:

2325. The surety on the bond of a nonprofit charitable corporation described in Section 2104 shall be an ~~authorized--surety company~~ admitted surety insurer.

SEC. . Section 2333 of the Probate Code is amended to read:

2333. (a) In case of a breach of a condition of the bond, an action may be brought against the sureties on the bond for the use and benefit of the ward or conservatee or of any person interested in the estate.

(b) Except as provided in subdivision (c), no action may be maintained against the sureties on the bond unless commenced within ~~three~~ four years from the discharge or removal of the guardian or conservator or within ~~three~~ four years from the date the order surcharging the guardian or conservator becomes final, whichever is later.

(c) If at the time of the discharge or removal of the guardian or conservator or when the order of surcharge becomes final any person entitled to bring the action is under any legal disability to sue, such person may commence the action within ~~three~~ four years after the disability is removed.

SEC. . Section 2580 of the Probate Code is amended to read:

2580. (a) The conservator or other interested person may file a petition under this article for an order of the court authorizing or requiring the conservator to take a proposed action for any one or more of the following purposes:

...

(9) Exercising the right of the conservatee to disclaim any interest that may be disclaimed under ~~Division-2-5~~ Part 8 (commencing with Section 260) of Division 2.

SEC. . Section 2610 of the Probate Code is amended to read:

2610. (a) Within 90 days after appointment, or within such further time as the court for reasonable cause upon ex parte petition of the guardian or conservator may allow, the guardian or conservator shall file with the clerk of the court an inventory and ~~appraisement~~ appraisal of the estate, made as of the date of the appointment of the guardian or conservator.

...

(c) The property described in the inventory shall be appraised in the manner provided for the inventory and ~~appraisement~~ appraisal of estates of decedents. The guardian or conservator may appraise the assets ~~which an executor or administrator could appraise under Section 605~~ that a personal representative could appraise under Section 8901.

...

(1) The inventory and ~~appraisement~~ appraisal required by subdivision (a) shall be filed within 90 days after appointment of the conservator.

...

SEC. . Section 2616 of the Probate Code is amended to read:

2616. ...

(c) Upon the filing of a petition under this section, the court may cite the named person to appear before the court, and the court and the petitioner may examine the named person under oath upon the matters recited in the petition. If the named person is not in the county where letters issued, the examination shall be made under this section but otherwise the procedure and the rights and duties of the parties shall be governed by the provisions of ~~Sections 613, 614, and 615~~ Article 2 (commencing with Section 8870) of Chapter 2 of Part 3 of Division 7.

SEC. . Section 3002 of the Probate Code is amended to read:

3002. "Community property" means community real property and community personal property, including but not limited to a community property business that is or was under the sole management and control of one of the spouses, but does not include community property in a revocable trust described in ~~Section 5113.5~~ 5110.150 of the Civil Code.

SEC. . Section 3082 of the Probate Code is amended to read:

3082. ~~(a)~~ Upon the filing of a petition under this article, the court may cite the spouse who has the management or control of community property to appear before the court, and the court and the petitioner may examine the spouse under oath concerning the community property and other matters relevant to the petition filed under this article. If the person so cited refuses to appear and submit to an examination, the court may proceed against the person as provided in ~~Section 614~~ Article 2 (commencing with Section 8870) of Chapter 2 of

Part 3 of Division 7. Upon such examination, the court may make an order requiring the person cited to disclose his or her knowledge of the community property and other matters relevant to the petition filed under this article, and if the order is not complied with the court may proceed against the person as provided in ~~Section 614~~ Article 2 (commencing with Section 8870) of Chapter 2 of Part 3 of Division 7.

SEC. . Section 3918 of the Probate Code is amended to read:

3918. (a) A person nominated under Section 3903 or designated under Section 3909 as custodian may decline to serve by delivering a valid disclaimer under ~~Division 2.5~~ Part 8 (commencing with Section 260) of Division 2 to the person who made the nomination or to the transferor or the transferor's legal representative. ...

SEC. . Section 6104 is added to the Probate Code, to read:

6104. The execution or revocation of a will or a part of a will is ineffective to the extent the execution or revocation was procured by duress, menace, fraud, or undue influence.

SEC. . Section 6105 is added to the Probate Code, to read:

6105. A will, the validity of which is made conditional by its own terms, shall be admitted to probate or rejected, or denied effect after admission to probate, in conformity with the condition.

SEC. . Section 6112 of the Probate Code is amended to read:

6112. (a) Any person generally competent to be a witness may act as a witness to a will.

(b) A will or any provision thereof is not invalid because the will is signed by an interested witness. Unless there are at least two other subscribing witnesses to the will who are disinterested witnesses, the fact that the will makes a devise to a subscribing witness creates a presumption that the witness procured the devise by duress, menace, fraud, or undue influence. This presumption is a presumption affecting the burden of proof.

(c) If a devise made by the will to an interested witness fails because the presumption established by subdivision (b) applies to the devise and the witness fails to rebut the presumption, the interested witness shall take such proportion of the devise made to the witness in the will as does not exceed the share of the estate which would be distributed to the witness if the will were not established. Nothing

in this subdivision affects the law that applies where it is established that the witness procured a devise by duress, menace, fraud, or undue influence.

(d) A provision in a will that a person who contests or attacks the will or any of its provisions takes nothing under the will or takes a reduced share does not apply to a contest or attack on a provision of the will that benefits the person who prepared the will or a witness to the will.

SEC. . Section 6221.5 of the Probate Code is amended to read:

6221.5. The execution of the attestation clause provided in the California statutory will by two or more witnesses satisfies Section 329 8221.

SEC. . Section 6327 of the Probate Code is amended to read:

6327. An appeal may be taken from any of the following:

(a) Any order described in Section ~~1297~~ 7240 made pursuant to this chapter.

...

SEC. . Section 6527 of the Probate Code is amended to read:

6527. (a) The court may by order modify the term or conditions of the probate homestead right or terminate the probate homestead right at any time prior to entry of a ~~final decree of~~ an order for final distribution of the decedent's estate if in the court's discretion to do so appears appropriate under the circumstances of the case.

...

SEC. . Section 6607 of the Probate Code is amended to read:

6607. ...

(b) If the petition under this chapter is filed with a petition for the probate of the decedent's will, ~~notice of the hearing on the petition under this chapter shall be given to the persons and in the manner prescribed by Sections 327 and 328 and shall be included in the notice of hearing required by these sections. If the petition filed under this chapter is filed~~ or with a petition for administration of the estate of the deceased spouse, notice of the hearing on the petition shall be given to the persons and in the manner prescribed by Section 441 8003 and shall be included in the notice required by that section.

...

SEC. . Section 6608 of the Probate Code is amended to read:

6608. If a petition is filed under this chapter, the personal representative, or the petitioner if no personal representative has been appointed, shall file with the clerk of the court, prior to the hearing of the petition, an inventory and ~~appraisement~~ appraisal in the form set forth in Section ~~600~~ 8802. The ~~appraisement~~ appraisal shall be made as set forth in ~~Chapter 9--(commencing with Section 600)--of Division 3~~ Part 3 (commencing with Section 8800) of Division 7. The personal representative or the petitioner, as the case may be, may appraise the assets which a personal representative could appraise under ~~paragraph (1) of subdivision (a) of Section 605~~ Section 8901.

SEC. . Section 6803 of the Probate Code is amended to read:

6803. (a) Subject to subdivision (b), all tangible personal property owned by the decedent that is subject to the control of a superior court of this state for purposes of administration and disposition under ~~Division 3--(commencing with Section 300)~~ Division 7 (commencing with Section 7000) escheats to this state in accordance with Section 6800.

...

SEC. . Section 6805 of the Probate Code is amended to read:

6805. (a) Subject to subdivision (b), all intangible property owned by the decedent that is subject to the control of a superior court of this state for purposes of administration and disposition under ~~Division 3--(commencing with Section 300)~~ Division 7 (commencing with Section 7000) escheats to this state in accordance with Section 680 whether or not the decedent was domiciled in this state at the time of the decedent's death.

...

SEC. . Section 9620 of the Probate Code is amended to read:

9620. If there is a dispute relating to the estate between the personal representative and a third person, the personal representative may do either of the following:

...

(b) Enter into an agreement in writing with the third person that a judge, pursuant to the agreement and with the written consent of the judge, both filed with the clerk within the time specified in Section

9257 9352 for bringing an independent suit on the matter in dispute, may hear and determine the dispute pursuant to the procedure provided in subdivision (a).

SEC. . Section 10003 of the Probate Code is amended to read:

10003. Subject to ~~Chapter 13 (commencing with Section 750) of Division 3~~ Part 4 (commencing with Section 21400) of Division 11 and to Sections 10001 and 10002, if estate property is required or permitted to be sold, the personal representative may:

...

SEC. . Section 10005 of the Probate Code is amended to read:

10005. (a) If any property ~~of~~ in the estate is sold for more than the ~~appraisement~~ appraised value, the personal representative shall account for the proceeds of sale, including the excess over the ~~appraisement~~ appraised value.

(b) If any property ~~of~~ in the estate is sold for less than the ~~appraisement~~ appraised value and the sale has been made in accordance with law, the personal representative is not responsible for the loss.

SEC. . Section 10301 of the Probate Code is amended to read:

10301. (a) If it appears from the inventory and ~~appraisement~~ appraisal that the value of the real property to be sold does not exceed five thousand dollars (\$5,000), the personal representative may in his or her discretion dispense with publication of notice of sale and, in lieu of publication, post the notice of sale at the courthouse of the county in which the real property or some portion thereof lies.

SEC. . Section 10405 of the Probate Code is amended to read:

10405. A special administrator may be granted authority to administer the estate under this part if the special administrator is appointed with, or has been granted, the powers of a general ~~administrator~~ personal representative.

SEC. . Section 12404 of the Probate Code is amended to read:

12404. ...

(b) The petition may be filed any person who may be appointed as a personal representative, other than a person described in ~~paragraph (12) of subdivision (a) of Section 422~~ subdivision (c) of Section 8461.

...

SEC. . Section 12408 of the Probate Code is amended to read:

12408. ...

(d) If a dispute arises as to the identity of a person claiming to be a reappearing missing person, the person making the claim or any other interested person may file a petition under Section ~~1080~~ 11700, notwithstanding the limitations of time prescribed in Section ~~1080~~ 11700, for the determination of the identity of the person claiming to be the reappearing missing person.

SEC. . Section 13114 of the Probate Code is amended to read:

13114. (a) A public administrator who has taken ~~charge of the estate of a decedent as provided in Section 1140~~ possession or control of property of a decedent under Article 1 (commencing with Section 7600) of Chapter 4 of Part 1 of Division 7 may refuse to pay money or deliver property pursuant to this chapter if payment of the costs and fees described in Section ~~1144.5, subject to the dollar limitations specified in that section,~~ 7604 has not first been made or adequately assured to the satisfaction of the public administrator.

(b) ...

SEC. . Section 13152 of the Probate Code is amended to read:

13152. (a) ...

(2) The gross value of the decedent's real and personal property in California, excluding the property described in Section 13050, as shown by the inventory and ~~appraisement~~ appraisal attached to the petition, does not exceed sixty thousand dollars (\$60,000).

...

(b) There shall be attached to the petition an inventory and ~~appraisement~~ appraisal in the form set forth in Section ~~600~~ 8802 of the decedent's real and personal property in this state, excluding the property described in Section 13050. The ~~inventory and appraisement appraisal~~ shall be made by a probate referee selected by the petitioner from those probate referees appointed by the Controller under Section ~~1305~~ 400 to appraise property in the county where the real property is located. The ~~appraisement appraisal~~ shall be made as set forth in ~~Chapter 9 (commencing with Section 600) of Division 3 Part 3 (commencing with Section 8800) of Division 7.~~ The petitioner may appraise the assets which a personal representative could appraise under ~~paragraph (1) of subdivision (a) of Section 605~~ Section 8901.

...

SEC. . Section 13154 of the Probate Code is amended to read:
13154. ...

(c) If the petition has attached an inventory and appraisement appraisal that satisfies the requirements of subdivision (b) of Section 13152, the determination required by paragraph (1) of subdivision (b) of this section shall be made on the basis of the verified petition and the attached inventory and appraisement appraisal, unless evidence is offered by a person opposing the petition that the gross value of the decedent's real and personal property in this state, excluding the property described in Section 13050, exceeds sixty thousand dollars (\$60,000).

SEC. . Section 13200 of the Probate Code is amended to read:
13200. (a) ...

(4) "The gross value of all real property in the decedent's estate located in California, as shown by the inventory and appraisement appraisal attached to this affidavit, appraisement appraisal excluding the real property described in Section 13050 of the California Probate Code, does not exceed ten thousand dollars (\$10,000)."

...

(c) There shall be attached to the affidavit an inventory and appraisement appraisal of the decedent's real property described in Section 13050. The form, content, and manner of making the inventory and appraisement appraisal of the real property shall be as set forth in Chapter 9 (commencing with Section 600) of Division 3 Part 3 (commencing with Section 8800) of Division 7. The ~~inventory and~~ appraisement appraisal shall be made by a probate referee selected by the affiant from those probate referees appointed by the Controller under Section ~~1305~~ 400 to appraise property in the county where the real property is located.

...

SEC. . Section 13203 of the Probate Code is amended to read:

13203. (a) A good faith purchaser or lessee of real property for value from, or a good faith lender to, a person designated as a successor of the decedent to a particular item of property in a certified copy of an affidavit issued under Section 13202 and recorded in the county in which the real property is located has the same rights

and protections as the purchaser, lessee, or lender would have if each person designated as a successor in the recorded certified copy of the affidavit had been named as a distributee of the real property in a ~~deeree-of~~ an order for distribution that had become final.

(b) The issuance and recording of a certified copy of an affidavit under this chapter does not preclude later proceedings for administration of the decedent's estate.

SEC. . Section 13501 of the Probate Code is amended to read:

13501. Except as provided in Chapter 6 (commencing with Section 6600) of Division 6 and in Part 1 (commencing with Section 13000) of this division, the following property of the decedent is subject to administration under ~~Division 3 (commencing with Section 300)~~ Division 7 (commencing with Section 7000):

...

SEC. . Section 13502 of the Probate Code is amended to read:

13502. (a) Upon the election of the surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse, all or a portion of the following property may be administered under ~~Division 3 (commencing with Section 300)~~ Division 7 (commencing with Section 7000):

...

(b) The election shall be made by a writing specifically evidencing the election filed in the proceedings for the administration of the estate of the deceased spouse within four months after the issuance of letters ~~testamentary-or-of-administration~~, or within such further time as the court may allow upon a showing of good cause, and before entry of an order under Section 13656.

SEC. . Section 13503 of the Probate Code is amended to read:

13503. ...

(b) The election and agreement shall be filed in the proceedings for the administration of the estate of the deceased spouse and before the entry of the ~~deeree-of~~ order for final distribution in the proceedings.

SEC. . Section 13550 of the Probate Code is amended to read:

13550. Except as provided in Section ~~951-1~~ 11446, 13552, 13553, and 13554, upon the death of a married person, the surviving spouse is

personally liable for the debts of the deceased spouse chargeable against the property described in Section 13551 to the extent provided in Section 13551.

SEC. . Section 13553 of the Probate Code is amended to read:

13553. The surviving spouse is not liable under this chapter if all the property described in paragraphs (1) and (2) of subdivision (a) of Section 13502 is administered under ~~Division 3 (commencing with Section 300)~~ Division 7 (commencing with Section 7000).

SEC. . Section 13650 of the Probate Code is amended to read:

13650. ...

(b) To the extent of the election, this section does not apply to property that the petitioner has elected, as provided in Section 13502, to have administered under ~~Division 3 (commencing with Section 300)~~ Division 7 (commencing with Section 7000).

...

SEC. . Section 13655 of the Probate Code is amended to read:

13655. (a) If a petition filed under this chapter is filed with a petition for probate of the deceased spouse's will, ~~notice of the hearing on the petition shall be given in the manner prescribed by Sections 327 and 328 and shall be included in the notice required by these sections.~~ ~~If the petition filed under this chapter is filed or~~ with a petition for administration of the estate of the deceased spouse, notice of the hearing on the petition shall be given in the manner prescribed by Section 441 8003 and shall be included in the notice required by that section.

...

SEC. . Section 13656 of the Probate Code is amended to read:

13656. ...

(b) If the court finds that all or part of the estate of the deceased spouse is not property passing to the surviving spouse, the court shall issue an order (1) describing any property which is not property passing to the surviving spouse, determining that that property does not pass to the surviving spouse and determining that that property is subject to administration under ~~Division 3 (commencing with Section 300)~~ Division 7 (commencing with Section 7000) and (2) describing the property, if any, which is property passing to the

surviving spouse, determining that that property passes to the surviving spouse, and determining that no administration of that property is necessary. If the court determines that property passes to the surviving spouse, the court may issue any further orders which may be necessary to cause delivery of that property or its proceeds to the surviving spouse.

...

SEC. . Section 13658 of the Probate Code is amended to read:

13658. If the court determines that all or a part of the property passing to the surviving spouse consists of an unincorporated business or an interest in an unincorporated business which the deceased spouse was operating or managing at the time of death, the court shall require the surviving spouse to file a list of all of the known creditors of the business and the amounts owing to each of them. The court may issue any order necessary to protect the interests of the creditors of the business, including, but not limited to, the filing of (1) an undertaking and (2) an inventory and ~~appraisement~~ appraisal in the form set forth in Section 609 8802 and made as set forth in Chapter--9 (~~commencing with Section 600~~)--of-Division-3 Part 3 (commencing with Section 8800) of Division 7.

SEC. . Section 13659 of the Probate Code is amended to read:

13659. Except as provided in Section 13658, no inventory and ~~appraisement~~ appraisal of the estate of the deceased spouse shall be required in a proceeding under this chapter. However, within three months after the filing of a petition under this chapter, or within such further time as the court or judge for reasonable cause may allow, the petitioner may file with the clerk of the court an inventory and ~~appraisement~~ appraisal in the form set forth in Section 609 8802. The ~~appraisement~~ appraisal shall be made as set forth in Chapter--9 (~~commencing with Section 600~~)--of-Division-3 Part 3 (commencing with Section 8800) of Division 7. The petitioner may appraise the assets which a personal representative could appraise under Section 605 8901.

SEC. . Section 16225 of the Probate Code is amended to read:

16225. (a) The trustee has the power to deposit trust funds at reasonable interest in any of the following accounts; ~~to the extent that the account is insured by a government agency or collateralized:~~
~~(1) An account in a bank.~~

~~(2) An account in an insured savings and loan association as defined in Section 1406.~~

~~(3) An account consisting of shares of an insured credit union, as defined in Section 1443.~~

(1) An insured account in a financial institution.

(2) To the extent that the account is collateralized, an account in a bank, an account in an insured savings and loan association, or an account in an insured credit union.

(b) A trustee may deposit trust funds pursuant to subdivision (a) in a financial institution operated by, or that is an affiliate of, the trustee. For the purpose of this subdivision, "affiliate" means a corporation that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another domestic or foreign corporation.

(c) This section does not limit the power of a trustee in a proper case to deposit trust funds in an account described in subdivision (a) that is subject to notice or other conditions respecting withdrawal prescribed by law or governmental regulation.

(d) The court may authorize the deposit of trust funds in an account described in subdivision (a) in an amount greater than the maximum insured or collateralized amount.

(e) Nothing in this section prevents the trustee from holding an amount of trust property reasonably necessary for the orderly administration of the trust in the form of cash or in a checking account without interest.

SEC. . Section 480 of the Revenue and Taxation Code is amended to read:

480. (a) Whenever any change in ownership of real property or of a mobilehome subject to local property taxation, and which is assessed by the county assessor, occurs, the transferee shall file a signed change in ownership statement in the county where the real property or mobilehome is located, as provided in subdivision (c). In the case of a change in ownership where the transferee is not locally assessed, no change in ownership statement is required.

(b) The ~~administrator or executor~~ personal representative shall file a change in ownership statement with the county recorder or

assessor in each county where the decedent owned real property at the time of death. The statement shall be filed at the time the inventory and-appraisement is filed with the court clerk.

...

SEC. . Section 6254 of the Welfare and Institutions Code is amended to read:

6254. ...

(d) Be committed to a facility of the Veterans Administration or other agency of the United States, to wit: _____ at _____ in accordance with the provisions of ~~Section 1663~~ of the Probate Code of the State of California.

...

SEC. . The heading of Chapter 1 (commencing with Section 8000) of Division 8 of the Welfare and Institutions Code is amended to read:

CHAPTER 1. PUBLIC-GUARDIAN SERVICES FOR ELDERS PILOT PROGRAM

SEC. . Section 8000 of the Welfare and Institutions Code is repealed.

SEC. . Section 8001 of the Welfare and Institutions Code is repealed.

SEC. . Section 8002 of the Welfare and Institutions Code is repealed.

SEC. . Section 8003 of the Welfare and Institutions Code is repealed.

SEC. . Section 8004 of the Welfare and Institutions Code is repealed.

SEC. . Section 8005 of the Welfare and Institutions Code is repealed.

SEC. . Section 8006 of the Welfare and Institutions Code is repealed.

SEC. . Section 8006.5 of the Welfare and Institutions Code is repealed.

SEC. . Section 8007 of the Welfare and Institutions Code is repealed.

SEC. . Section 8008 of the Welfare and Institutions Code is repealed.

SEC. . Section 8009 of the Welfare and Institutions Code is repealed.

SEC. . Section 8010 of the Welfare and Institutions Code is repealed.

SEC. . Section 8011 of the Welfare and Institutions Code is repealed.

SEC. . Section 8012 of the Welfare and Institutions Code is repealed.

SEC. . Section 8013 of the Welfare and Institutions Code is repealed.

SEC. . Section 8015 of the Welfare and Institutions Code is repealed.

SEC. . The repeal of Section 1050, 1051, 1052, and 1053, and the amendment of Section 1054, of the Probate Code by Chapter 842 of the Statutes of 1983, apply only to cases where the decedent died on or after January 1, 1985. If the decedent died before January 1, 1985, the case is governed by Article 5 (commencing with Section 1050) of Chapter 16 of Division 3 of the Probate Code as it would exist had Chapter 842 of the Statutes of 1983 not been enacted.

EXHIBIT 2

COMMENTS TO CONFORMING CHANGES

Civil Code § 63 (amended). Capacity of emancipated minor

Comment. Section 63 is amended to correct a section reference.

Civil Code § 990 (amended). Deceased personality

Comment. Section 990 is amended to conform terminology.

Civil Code § 1086 (amended). Agency listings

Comment. Paragraph (4) of subdivision (e) of Section 1086 is superseded by Civil Code Section 1089.5 (application of article.)

Civil Code § 1089.5 (added). Application of article

Comment. Section 1089.5 is added to make clear that Sections 1086-1090 of the Civil Code apply to the placing of a listing under Section 10150 of the Probate Code in a multiple listing service, except that the Civil Code sections are subject to the limitations, conditions, and requirements of the Probate Code provisions relating to sales of property in a decedent's estate.

Civil Code § 2417 (amended). Attorney in fact

Comment. Section 2417 is amended to correct a section reference.

Code of Civil Procedure § 153 (amended). Documents under seal

Comment. Section 153 is amended to delete the former reference to papers in probate. This provision was unnecessary, since the seal is expressly provided for in the relevant statutes in these cases. See, e.g., Prob. Code §§ 2311 (letters of guardianship or conservatorship), 8405 (letters of personal representative).

Code of Civil Procedure § 166 (amended). Matters in chambers

Comment. Section 166 is amended to provide additional probate matters that may be heard and determined in chambers. The added provisions restate former provisions of the Probate Code without substantive change. See former Prob. Code §§ 460-464 (appointment of special administrator), 613-615 (citation to account), 703, 710-713, 718 (rejection of claim), 921-922 (citation to account), 1020.5 (notice of settlement of supplementary accounts). Section 166 is also amended to change the phrase "at chambers" to "in chambers" in conformity with modern usage.

Code of Civil Procedure § 580a (amended). Deficiency judgments

Comment. Section 580a is amended to correct terminology. See Prob. Code §§ 400-453 (probate referees).

Code of Civil Procedure § 904.1 (technical amendment). Appealable judgments and orders of superior court

Comment. Subdivision (j) of Section 904.1 is revised to conform to the terminology of the Probate Code. See Prob. Code § 7240 (appealable orders or refusals to make orders).

Code of Civil Procedure § 1026 (amended). Costs in actions by or against fiduciaries

Comment. Section 1026 is subdivided and amended to cover actions prosecuted or defended by a guardian or a conservator. The former reference to an executor or administrator is replaced by a reference to a personal representative. This is a nonsubstantive change. See Prob. Code § 58 ("personal representative" defined). For provisions governing liability for costs in proceedings under the Probate Code, see Prob. Code § 1002 and the Comment thereto.

Code of Civil Procedure § 1421 (amended). Escheated property

Comment. Section 1421 is amended to correct a section reference and to make other technical changes.

Code of Civil Procedure § 1441 (amended)

Comment. Section 1441 is amended to reflect the repeal of Probate Code Section 1144 and its replacement, in part, by Probate Code Section 7663 (distribution of property), which provides for escheat to the county, and to reflect the repeal of Probate Code Section 1027 and its replacement, in part, by Probate Code Section 11900 (distribution to State of California).

Code of Civil Procedure § 1443 (amended)

Comment. Section 1443 is amended to reflect the repeal of Probate Code Section 738 and its replacement by Probate Code Section 11428 (deposit for missing creditor), the repeal of Probate Code Section 1027 and its replacement, in part, by Probate Code Section 11900 (distribution to State of California), the repeal of Probate Code Section 1148 and its replacement by Probate Code Section 7643 (deposit with county treasurer), and the repeal of Probate Code Section 1144 and its replacement, in part, by Probate Code Section 7663 (distribution of property), which provides for escheat to the county.

Code of Civil Procedure § 1449 (amended)

Comment. Section 1449 is amended to reflect the repeal of Probate Code Section 1147.5 and its replacement by Probate Code Section 7644 (deposit unclaimed in financial institution).

Code of Civil Procedure § 1913 (amended). Sister state judicial records

Comment. Section 1913 is divided into subdivisions and subdivision (b) is amended to recognize that a specific statute may provide for limited authority in California of a sister state personal representative. See Prob. Code §§ 12570-12572 (collection of personal property of small estate without ancillary administration).

Financial Code § 6950 (amended). Payment of nondomiciliary's account to personal representative; tax exemption

Comment. Section 6950 is revised to conform to the procedures and terminology of the Probate Code. See Prob. Code §§ 58 (personal representative), 12502 (foreign nation), 12504 (local personal representative), 12506 (sister state), 12507 (sister state personal representative). The authority of a foreign nation personal representative to collect property under this section has been deleted because a foreign nation personal representative is without power to

act in an official capacity in California unless appointed in this state. See Prob. Code § 12520 and the Comment thereto.

Food & Agriculture Code § 62708.5 (amended). Producer-handlers

Comment. Section 62708.5 is amended to delete the reference to the Probate Code definitions of degrees of lineal and collateral consanguinity. The Probate Code no longer includes such definitions, and the meaning of these concepts is well understood.

Government Code § 12598 (amended). Attorney General

Comment. Section 12598 is amended to correct section references.

Government Code § 13944 (amended). Escheated property

Comment. Section 13944 is amended to correct a section reference.

Government Code § 27643 (amended). Attorney for public administrator

Comment. Section 27643 is amended to correct section references.

Government Code § 29616 (repealed). Public administrator's report

Comment. The semiannual report to which former Section 29616 referred was repealed in 1981. See former Probate Code § 1153.

Government Code § 69503 (amended). Court records

Comment. Section 69503 is amended to correct a section reference.

Health & Safety Code § 1289.4 (amended). Long-term health care facilities

Comment. Section 1289.4 is amended to correct a section reference.

Health & Safety Code § 7902 (amended). Notice of hearing

Comment. Section 7902 is amended to correct a section reference.

Insurance Code § 11580.3 (amended). Award to minor

Comment. Section 11580.3 is amended to correct a section reference and make other technical changes.

Labor Code § 100.5 (amended). Preferred claims

Comment. Section 100.5 is amended to correct a section reference.

Military & Veterans Code § 1035.05 (amended). Veterans' Home

Comment. Section 1035.05 is amended to make clear that the Veterans' Home of California is considered a "beneficiary" within the meaning of the Probate Code provisions governing distribution, for proper interpretation of the law. Thus, for example, under Probate Code Section 7663 (distribution of property by public administrator), distribution must be made to the Veterans' Home if appropriate before funds may be delivered to the county treasurer.

Penal Code § 653.5 (repealed). Probate referees

Comment. Former Section 653.5 is not continued. As a result of the repeal of the inheritance tax, the appraisal function in probate proceedings is now limited to purposes other than inheritance taxation and is performed by probate referees. See Prob. Code §§ 8900-8964.

Probate Code § 20 (amended). Application of definitions

Comment. Section 20 is amended to make the definitions of this part applicable to the entire Probate Code except as provided in subdivision (b). This amendment does not make any substantive changes, except that the definitions now apply to the reorganized Division 3 (general provisions of a procedural nature).

Probate Code § 52 (amended). Letters

Comment. Section 52 is amended for drafting convenience.

Probate Code § 58 (amended). Personal representative

Comment. Section 58 is amended to correct a section reference.

Probate Code § 104 (amended). Community property trust

Comment. Section 104 is amended to correct a section reference.

Probate Code § 260 (amended). Definitions

Comment. Section 260 is amended to reflect the reorganization of Division 2.5 as Part 8 of Division 2.

Probate Code § 261 (repealed). "Account" defined

Comment. Former Section 261 duplicated Section 21 ("account" defined). See also Section 20 (application of definitions).

Probate Code § 268 (repealed). "Person" defined

Comment. Former Section 268 duplicated Section 56 ("person" defined). See also Section 20 (application of definitions).

Probate Code § 270 (repealed). "Totten trust account" defined

Comment. Former Section 270 duplicated Section 80 ("Totten trust account" defined). See also Section 20 (application of definitions).

Probate Code § 275 (amended). Authority to disclaim

Comment. Section 275 is amended to reflect the reorganization of Division 2.5 as Part 8 of Division 2.

Probate Code § 280 (amended). Filing of disclaimer

Comment. Section 280 is amended to reflect the reorganization of Division 2.5 as Part 8 of Division 2.

Probate Code § 283 (amended). Disclaimer not a fraudulent transfer

Comment. Section 283 is amended to reflect enactment of the Uniform Fraudulent Transfer Act.

Probate Code § 284 (amended). Waiver of right to disclaim

Comment. Section 284 is amended to reflect the reorganization of Division 2.5 as Part 8 of Division 2.

Probate Code § 287 (amended). Transitional provision

Comment. Section 287 is amended to reflect the reorganization of Division 2.5 as Part 8 of Division 2.

Probate Code § 288 (amended). Disclaimer exclusive

Comment. Section 288 is amended to reflect the reorganization of Division 2.5 as Part 8 of Division 2.

Probate Code § 295 (amended). Effect of federal law
Comment. Section 295 is amended to reflect the reorganization of Division 2.5 as Part 8 of Division 2.

Probate Code § 2100 (amended). Law governing guardianships and conservatorships
Comment. Section 2100 is amended to correct section references.

Probate Code § 2320 (amended). Amount of bond
Comment. Section 2320 is amended to reflect the repeal of former Section 541 and to conform terminology.

Probate Code § 2325 (amended). Bond of nonprofit corporation
Comment. Section 2325 is amended to conform terminology.

Probate Code § 2333 (amended). Action against sureties
Comment. Section 2333 is amended for conformity with Section 8488 (personal representatives).

Probate Code § 2580 (amended). Petition to authorize proposed action
Comment. Section 2580 is amended to correct a section reference.

Probate Code § 2610 (amended). Filing inventory and appraisal
Comment. Section 2610 is amended to correct a section reference and conform terminology.

Probate Code § 2616 (amended). Examination concerning assets of estate
Comment. Section 2616 is amended to correct a section reference.

Probate Code § 3002 (amended). Community property
Comment. Section 3002 is amended to correct a section reference.

Probate Code § 3082 (amended). Examination concerning property
Comment. Section 3082 is amended to correct a section reference.

Probate Code § 3918 (amended). Successor custodian
Comment. Section 3918 is amended to correct a section reference.

Probate Code § 6104 (added). Effect of duress, menace, fraud, or undue influence
Comment. Section 6104 restates former Section 328.3 without substantive change.

Probate Code § 6105 (added). Conditional will
Comment. Section 6105 restates former Section 328.7 without substantive change.

Probate Code § 6112 (amended). Interested witness
Comment. Subdivision (d) of Section 6112 restates former Section 372.5 and extends it to the lawyer or other person who prepared the testator's will.

Probate Code § 6221.5 (amended). Execution of attestation clause
Comment. Section 6221.5 is amended to correct a section reference.

Probate Code § 6327 (amended). Appeals

Comment. Section 6327 is amended to correct a section reference.

Probate Code § 6527 (amended). Application of part

Comment. Section 6527 is amended to conform terminology.

Probate Code § 6607 (amended).

Comment. Section 6608 is amended to correct section references and conform terminology.

Probate Code § 6608 (amended). Inventory and appraisal

Comment. Section 6608 is amended to correct section references and conform terminology.

Probate Code § 6803 (amended). Escheat of tangible personal property

Comment. Section 6803 is amended to correct a section reference.

Probate Code § 6805 (amended). Escheat of intangible property

Comment. Section 6805 is amended to correct a section reference.

Probate Code § 9620 (amended). Summary determination of disputes

Comment. Section 9620 is amended to correct a section reference.

Probate Code § 10003 (amended). Sales

Comment. Section 10003 is amended to correct a section reference.

Probate Code § 10005 (amended). Appraised value

Comment. Section 10005 is amended to conform terminology.

Probate Code § 10301 (amended). Posting notice

Comment. Section 10301 is amended to conform terminology.

Probate Code § 10405 (amended). Special administrator

Comment. Section 10405 is amended to conform terminology.

Probate Code § 12404 (amended). Missing persons

Comment. Section 12404 is amended to correct a section reference.

Probate Code § 12408 (amended). Determination of identity

Comment. Section 12408 is amended to correct a section reference.

Probate Code § 13052 (amended). Date of valuation

Comment. Section 13052 is amended to correct terminology. See Probate Code Sections 400-453 (probate referees).

Probate Code § 13114 (amended). Public administrator or coroner holding property

Comment. Section 13114 is amended to correct terminology and section references.

Probate Code § 13152 (amended). Petition for determination of succession

Comment. Section 13152 is amended to correct terminology and section references.

Probate Code § 13154 (amended), Court order

Comment. Section 13154 is amended to correct terminology.

Probate Code § 13200 (amended), Affidavit for real property

Comment. Section 13200 is amended to correct terminology and section references.

Probate Code § 13203 (amended), Effect of recording

Comment. Section 13203 is amended to correct terminology.

Probate Code § 13501 (amended), Property of deceased spouse subject to administration

Comment. Section 13501 is amended to correct section references.

Probate Code § 13502 (amended), Election to administer property

Comment. Section 13502 is amended to correct terminology and section references.

Probate Code § 13503 (amended), Election to join property in administration

Comment. Section 13503 is amended to correct terminology.

Probate Code § 13550 (amended), Personal liability for debts

Comment. Section 13550 is amended to correct a section reference.

Probate Code § 13553 (amended), Exemption from liability

Comment. Section 13553 is amended to correct a section reference.

Probate Code § 13650 (amended), Petition for court order

Comment. Section 13650 is amended to correct section references.

Probate Code § 13655 (amended), Notice of hearing

Comment. Section 13655 is amended to correct section references.

Probate Code § 13656 (amended), Court order

Comment. Section 13656 is amended to correct section references.

Probate Code § 13658 (amended), Unincorporated business

Comment. Section 13658 is amended to correct terminology and section references.

Probate Code § 13659 (amended), Inventory and appraisal

Comment. Section 13659 is amended to correct terminology and section references.

Probate Code § 16225 (amended), Trustee's power to make deposits in financial institutions

Comment. Subdivision (a) of Section 16225 is amended to conform the terminology of this section to the general definitions. See Sections 22 (account in an insured credit union), 23 (account in an insured savings and loan association), 40 (financial institution), 46 (insured account in a financial institution). This amendment is technical and nonsubstantive.

Welfare & Institutions Code § 6254 (amended). Judicial commitments
Comment. Subdivision (d) of Section 6254 is revised to reflect the repeal of former Probate Code Section 1663.

Welfare & Institutions Code §§ 8000-8016 (chapter heading)
Comment. The heading of Chapter 1, formerly commencing with Section 8000, is amended to reflect the relocation of former Sections 8000-8015 to the Government Code and the Probate Code and the retention of Section 8016 in this chapter.

Welfare & Institutions Code § 8000 (repealed)
Comment. Former Section 8000 is restated in Government Code Sections 27430, 27431, and 27436 without substantive change.

Welfare & Institutions Code § 8001 (repealed)
Comment. Former Section 8001 is restated in Government Code Section 27432 without substantive change.

Welfare & Institutions Code § 8002 (repealed)
Comment. Former Section 8002 is restated in Government Code Section 27430 without substantive change.

Welfare & Institutions Code § 8003 (repealed)
Comment. Former Section 8003 is restated in Government Code Section 27432 without substantive change.

Welfare & Institutions Code § 8004 (repealed)
Comment. Former Section 8004 is restated in Government Code Section 27432 without substantive change.

Welfare & Institutions Code § 8005 (repealed)
Comment. Former Section 8005 is restated in Government Code Section 27433 without substantive change.

Welfare & Institutions Code § 8006 (repealed)
Comment. Former Section 8006 is superseded by Probate Code Sections 2900, 2920, and 2922.

Welfare & Institutions Code § 8006.5 (repealed)
Comment. Former Section 8006.5 is restated in Probate Code Section 2902, which eliminates the maximum and minimum fees.

Welfare & Institutions Code § 8007 (repealed)
Comment. Former Section 8007 is restated in Probate Code Section 2921 without substantive change.

Welfare & Institutions Code § 8008 (repealed)
Comment. Former Section 8008 is restated in Government Code Section 27434 without substantive change.

Welfare & Institutions Code § 8009 (repealed)
Comment. Former Section 8009 is superseded by Probate Code Section 2940.

Welfare & Institutions Code § 8010 (repealed)

Comment. Former Section 8010 is restated in Probate Code Section 2941, with the addition of a reference to satisfactory pro bono or contingency fee arrangements.

Welfare & Institutions Code § 8011 (repealed)

Comment. Former Section 8011 is superseded by Probate Code Section 2943.

Welfare & Institutions Code § 8012 (repealed)

Comment. Former Section 8012 is superseded by Probate Code Section 2631.

Welfare & Institutions Code § 8013 (repealed)

Comment. Former Section 8013 is restated in Probate Code Section 2942 without substantive change.

Welfare & Institutions Code § 8015 (repealed)

Comment. Former Section 8015 is restated in Government Code Section 27435 without substantive change.

Uncodified (added)

Comment. This section restates former Section 1055 without substantive change.