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jd972
10/31/89

Memorandum 89-101

Subject: Study L -Staff Proposed Amendments to AB 759

Attached to this Memorandum are staff proposed amendments to AB 759. We will need to make these amendments as soon as possible after the Legislature goes into the 1990 session. To meet this schedule, we need to get the amendments to the office of the Legislative Counsel so they can be prepared to be submitted to the Committee during the first week of January 1990. Accordingly, the Commission needs to review and approve the amendments at its November 30-December 1 meeting. At the same meeting, the Commission should review and approve the amendments made to Assembly Bill 759 on May 30, 1989.

The attached amendments are directed to Assembly Bill 759 as amended in Assembly May 30, 1989. A copy of this version of Assembly Bill 759 is enclosed.

The amendments are largely technical. The significant amendments are identified in the staff draft of the Recommendation Proposing the Probate Code (Memorandum 89-100).

Respectfully submitted,

John H. DeMouilly
Executive Secretary

PC12
10/24/89
13:25:11

AMENDMENTS TO AB 759
AS AMENDED IN ASSEMBLY MAY 30, 1989

AMENDMENT 1

On page 5, line 15, strike out "Title" and insert:
Subchapter

AMENDMENT 2

On page 5, line 16, after "Act" insert:
(12 U.S.C. Sec. 1751, et seq.)

AMENDMENT 3

On page 5, line 22, strike out "Title" and insert:
Subchapter

AMENDMENT 4

On page 6, strike out lines 31 and 32, and insert:
29. "Conservatee" includes a limited conservatee.
30. "Conservator" includes a limited conservator.

AMENDMENT 5

On page 7, between lines 12 and 13, insert:
42. "General personal representative" is defined in Section
58.

AMENDMENT 6

On page 27, line 2, strike out "or Trust" and insert:
, Trust, or Other Instrument

AMENDMENT 7

On page 28, line 5, after "instrument" insert:
calls

AMENDMENT 8

On page 28, line 23, after "or" insert:

other

AMENDMENT 9

On page 37, between lines 18 and 19, insert:

(c) Subdivision (b) applies only to cases where the disclaimer is filed on or after January 1, 1985.

AMENDMENT 10

On page 43, line 18, after "do" insert:

any

AMENDMENT 11

On page 52, between lines 13 and 14, insert:

PART 14. APPLICABILITY OF REPEALED OR AMENDED PROVISIONS RELATING
TO COMPENSATION OF ESTATE ATTORNEY AND PERSONAL REPRESENTATIVE

900. (a) Sections 900, 901, 902, 903, 904, 910, and 911 of the repealed Probate Code continue to apply in any proceeding for the administration of a decedent's estate commenced before January 1, 1991, notwithstanding their repeal by Chapter [AB831] of the Statutes of 1990.

(b) The following sections do not apply in any proceeding for administration of a decedent's estate commenced before January 1, 1991:

- (1) Section 7623.
- (2) Section 7662.
- (3) Section 7666.
- (4) Section 8547.
- (5) Section 9651.
- (6) Section 10900.
- (7) Section 10954.
- (8) Section 11000.
- (9) Section 11003.
- (10) Section 12205.

(c) The sections of the repealed Probate Code having the numbers listed in subdivision (b), as those sections existed prior to

their amendment by Chapter [AB831] of the Statutes of 1990, continue to apply in any proceeding for administration of a decedent's estate commenced before January 1, 1991.

AMENDMENT 12

On page 60, line 7, after "NOTICES" insert:
AND CITATIONS

AMENDMENT 13

On page 61, strike out line 38 and insert:
receipt.

AMENDMENT 14

On page 64, line 23, strike out "In proceedings" and strike out lines 24 to 27, inclusive

AMENDMENT 15

On page 66, line 37, after "required" insert:
by statute

AMENDMENT 16

On page 68, line 10, strike out "If" and insert:
Unless the court makes an order dispensing with the notice, if

AMENDMENT 17

On page 73, line 27, strike out "Nothing" and insert:
Subject to subdivision (e), nothing

AMENDMENT 18

On page 73, line 32, after "notice" insert:
otherwise

AMENDMENT 19

On page 73, lines 32 and 33, strike out "under subdivision (b)" and insert:
as provided in this section

AMENDMENT 20

On page 74, line 24, strike out "below"

AMENDMENT 21

On page 81, strike out lines 16 to 40, inclusive, and strike out page 82

AMENDMENT 22

On page 83, line 4, strike out "prior to the operative date" and insert:
before January 1, 1981

AMENDMENT 23

On page 83, line 13, strike out "prior to the operative date" and insert:
before January 1, 1981

AMENDMENT 24

On page 83, line 22, strike out "after the operative date" and insert:
on or after January 1, 1981

AMENDMENT 25

On page 83, line 27, strike out "(a)"

AMENDMENT 26

On page 83, strike out lines 31 to 40, inclusive, and on page 84, strike out lines 1 to 16, inclusive

AMENDMENT 27

On page 87, line 5, after "following" insert:
persons

AMENDMENT 28

On page 90, line 6, strike out "each" and insert:
that

AMENDMENT 29

On page 93, line 38, after "1800." insert:

The Legislature hereby finds and declares that the purposes of this chapter are to do the following:

(a) Protect the rights of persons who are placed under conservatorship.

(b) Provide that an assessment of the needs of the person is performed in order to determine the appropriateness and extent of a conservatorship and to set goals for increasing the conservatee's functional abilities to whatever extent possible.

(c) Provide that the health and psychological needs of the proposed conservatee are met.

(d) Provide that community-based services are used to the greatest extent to allow the conservatee to remain as independent and in the least restrictive setting as possible.

(e) Provide that the periodic review of the conservatorship by the court investigator shall consider the best interest of the conservatee.

(f) Ensure that the conservatee's basic needs for physical health, food, clothing, and shelter are met.

(g) Provide for the proper management and protection of the conservatee's real and personal property.

1800.3.

AMENDMENT 30

On page 94, line 5, strike out "1800." and insert:

1800.3.

AMENDMENT 31

On page 95, line 5, strike out "1800," and insert:

1800.3,

AMENDMENT 32

On page 95, line 12, strike out "1800," and insert:

1800.3,

AMENDMENT 33

On page 97, strike out lines 21 to 24, inclusive, and insert: both, shall specify the name, address, and telephone number of the proposed conservator and the name, address, and telephone number of the proposed conservatee, and, unless the petitioner is a bank or other entity authorized to conduct the business of a trust company, shall include supplemental information submitted by the petitioner as to why the appointment of a conservator is required. The supplemental information to be submitted shall include a brief statement of facts addressed to each of the following categories:

(1) The inability of the proposed conservatee to properly provide for his or her needs for physical health, food, clothing, and shelter.

(2) The location of the proposed conservatee's residence and the ability of the proposed conservatee to live in the residence while under conservatorship.

(3) Alternatives to conservatorship considered by the petitioner and reasons why those alternatives are not available.

(4) Health or social services provided to the proposed conservatee during the year preceding the filing of the petition, when the petitioner has information as to those services.

(5) The inability of the proposed conservatee to substantially manage his or her own financial resources, or to resist fraud or undue influence.

The facts required to address the conditions set forth in paragraphs (1) to (5), inclusive, shall be set forth by the petitioner when he or she has knowledge of the facts or by the declarations or affidavits of other persons having knowledge of those facts. In the event that the petitioner does not have personal knowledge of those facts, any person having knowledge of those facts may attest to those facts in an affidavit or declaration under penalty of perjury attached to the petition.

Where any of the conditions set forth in paragraphs (1) to (5), inclusive, are not applicable to the proposed conservatorship, the petitioner shall so indicate and state on the supplemental information form the reasons therefor.

The Judicial Council shall develop a supplemental information form for the information required pursuant to paragraphs (1) to (5), inclusive, after consultation with individuals or organizations approved by the Judicial Council, who represent public conservators, court investigators, the State Bar, specialists with experience in performing assessments and coordinating community-based services, and legal services for the elderly and disabled.

The supplemental information form shall be separate and distinct from the form for the petition. The supplemental information shall be confidential and shall be made available only to parties, persons given notice of the petition who have requested this supplemental information or who have appeared in the proceedings, their attorney, and the court. The court shall have discretion at any other time to release the supplemental information, if it would serve the interests of the conservatee. The county clerk shall make provisions for the limitation of the supplemental information exclusively to persons entitled to its receipt.

AMENDMENT 34

On page 98, between lines 38 and 39, insert:

(i) All conservators shall file a general plan with the court within 90 days of appointment detailing how the personal and financial needs of the conservatee will be met. A copy of the plan shall be provided to the court investigator, and notice of the filing of the general plan shall be given to those persons who have been given notice of the petition. The general plan may be reviewed by those persons who have been given notice of the petition and who request to view the general plan. The court may schedule a hearing on the general plan, if the court determines that a hearing would serve the best interests of the conservatee or if there are objections to the plan within 30 days after mailing of the notice of filing.

Reports submitted pursuant to Section 416.8 of the Health and Safety Code meet the requirements of this section, and conservatorships filed pursuant to Section 416.8 of the Health and Safety Code are exempt from providing the supplemental information required by this section, so long as the guidelines adopted by the State Department of Developmental Services for regional centers require the same information which is required pursuant to this section.

AMENDMENT 35

On page 101, strike out lines 31 to 34, inclusive, and insert:
1826. Regardless of whether the proposed conservatee attends

AMENDMENT 36

On page 102, between lines 10 and 11, insert:

(d) Review the allegations of the petition as to why the appointment of the conservator is required and the facts set forth in the supplemental information form which addresses each of the categories specified in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1821, and refer to the supplemental information submitted by the petitioner in making his or her determinations.

AMENDMENT 37

On page 102, line 11, strike out "(d)" and insert:
(e)

AMENDMENT 38

On page 102, line 14, strike out "(e)" and insert:
(f)

AMENDMENT 39

On page 102, line 17, strike out "(f)" and insert:
(g)

AMENDMENT 40

On page 102, line 22, strike out "(g)" and insert:
(h)

AMENDMENT 41

On page 102, line 24, strike out "(h)" and insert:
(i)

AMENDMENT 42

On page 102, line 27, strike out "(i)" and insert:
(j)

AMENDMENT 43

On page 102, line 33, strike out "(j)" and insert:

(k)

AMENDMENT 44

On page 103, line 3, strike out "(k)" and insert:

(l)

AMENDMENT 45

On page 103, line 4, strike out "(j)" and insert:

(k)

AMENDMENT 46

On page 103, between lines 8 and 9, insert:

(m) The court investigator shall have discretion to release the report required by this section to the public conservator, interested public agencies, and the long-term care ombudsman.

(n) The report required by this section shall be confidential and shall be made available only to parties, persons given notice of the petition who have requested this report or who have appeared in the proceedings, their attorneys, and the court. The court shall have discretion at any other time to release the report, if it would serve the interests of the conservatee. The county clerk shall make provisions for the limitation of the report exclusively to persons entitled to its receipt.

(o) This section does not apply to a proposed conservatee who has personally executed the petition for conservatorship, or one who has nominated his or her own conservator, if he or she attends the hearing.

AMENDMENT 47

On page 103, strike out lines 25 and 26, and insert:
not binding upon the court. In a proceeding where the petitioner is a

AMENDMENT 48

On page 106, line 36, after "following" insert:
persons

AMENDMENT 49

On page 108, line 34, strike out "his or her" and insert:
the conservator's

AMENDMENT 50

On page 113, between lines 24 and 25, insert:

(d) The court investigator may personally visit the conservator and other persons as may be necessary to determine whether the present conservator is acting in the best interests of the conservatee.

AMENDMENT 51

On page 113, line 29, strike out "each" and insert:
that

AMENDMENT 52

On page 113, strike out lines 36 to 38, inclusive, and insert:
Controller pursuant to subdivision (a). The court may order the estate to reimburse the county for the cost of the investigations required by statute, unless the court finds that the assessment would pose a hardship to the estate. A county may

AMENDMENT 53

On page 114, line 4, strike out "2231 and 2234 of the Revenue and Taxation" and insert:
17561 and 17565 of the Government

AMENDMENT 54

On page 118, line 18, after "conservatorship" insert a comma

AMENDMENT 55

On page 120, lines 31 and 32, strike out "purchaser or encumbrancer" and insert:
third person acting

AMENDMENT 56

On page 121, line 21, after "1890." insert:
(a)

AMENDMENT 57

On page 121, between lines 27 and 28, insert:

(b) In the case of a petition filed under this chapter requesting that the court make an order under this chapter or that the court modify or revoke an order made under this chapter, when the order applies to a limited conservatee, the order may only be made upon a petition made, noticed, and heard by the court in the manner provided by Article 3 (commencing with Section 1820) of Chapter 1.

AMENDMENT 58

On page 121, between lines 35 and 36, insert:

(c) Any request for a court order under Section 1880 whether made as part of the original petition for appointment of a conservator or subsequent thereto, shall be accompanied by a declaration executed by a licensed physician that the proposed conservatee or the conservatee, as the case may be, lacks the capacity to give an informed consent for any form of medical treatment and the reasons therefor.

AMENDMENT 59

On page 133, line 18, strike out "or all" and insert:
one or more

AMENDMENT 60

On page 135, strike out lines 22 and 23, and insert:
governed by Division 3 (commencing with Section 1000) except to the extent otherwise provided by statute and

AMENDMENT 61

On page 136, line 12, after "includes" insert a comma

AMENDMENT 62

On page 140, between lines 20 and 21, insert:

2110. Unless otherwise provided in the instrument or in this division, a guardian or conservator is not personally liable on an instrument, including but not limited to a note, mortgage, deed of trust, or other contract, properly entered into in the guardian's or conservator's fiduciary capacity in the course of the guardianship or

conservatorship unless the guardian or conservator fails to reveal the guardian's or conservator's representative capacity or identify the guardianship or conservatorship estate in the instrument.

AMENDMENT 63

On page 145, line 7, strike out "natural"

AMENDMENT 64

On page 152, strike out lines 33 to 39, inclusive, and insert:
2320. (a) Except as otherwise provided by statute, every person appointed as guardian or conservator shall, before letters are issued, give a bond approved by the court.

(b) The bond shall be for the benefit of the ward or conservatee and all persons interested in the guardianship or conservatorship estate and shall be conditioned upon the faithful execution of the duties of the office according to law by the guardian or conservator.

AMENDMENT 65

On page 153, line 1, strike out "(b)" and insert:
(c)

AMENDMENT 66

On page 153, line 5, strike out "and"

AMENDMENT 67

On page 153, line 18, after the first "of" insert a comma

AMENDMENT 68

On page 153, strike out lines 22 to 25, inclusive, and insert:
(d) If the bond is given by personal sureties, the amount of the bond shall be twice the amount required for a bond given by an admitted surety insurer.

(e) The provisions of the Bond and Undertaking Law (Chapter 2 (commencing with Section 995.010) of Title 14 of Part 2 of the Code of Civil Procedure) apply to a bond given under this article, except to the extent that this article is inconsistent.

AMENDMENT 69

On page 157, between lines 21 and 22, insert:

Article 4. Registration of Private Professional Conservators

2340. No superior court may appoint a private professional conservator pursuant to Chapter 5 (commencing with Section 2350) or Chapter 6 (commencing with Section 2400) of this part unless the conservator has filed the information required by Sections 2342 and 2343 with the county clerk in each county where a petition for appointment has been filed.

2341. As used in this article, "private professional conservator" means a person or entity appointed as conservator of the person or estate, or both, of two or more conservatees at the same time who are not related to the conservator by blood or marriage, except a bank or other entity authorized to conduct the business of a trust company, or any public officer or public agency including the public guardian, public conservator, or other agency of the State of California. In the case of an entity, all natural persons who are authorized by the entity to perform the functions of a conservator shall comply with this article. The court may, at its discretion, require the person who is the conservator for only one conservatee not related to the conservator by blood or marriage to comply with this article.

2342. (a) A private professional conservator, shall file annually with the county clerk a statement, under penalty of perjury, containing the following information:

(1) His or her educational background and professional experience.

(2) At least three professional references.

(3) The names of the conservator's current conservatees.

(4) The aggregate dollar value of assets currently under the conservator's supervision.

(5) The conservator's addresses and telephone numbers for his or her place of business and place of residence.

(6) Whether the conservator has ever been removed for cause as conservator or has resigned as conservator in a specific case, the

circumstances causing that removal or resignation, and the case names, court locations, and case numbers.

(b) Upon filing of a petition for appointment, a private professional conservator shall state that he or she is a private professional conservator, and that the information required by this section is on file with the county clerk.

(c) The county clerk shall order a background fingerprint check from the Department of Justice and may request a background fingerprint check from the Federal Bureau of Investigation on each private professional conservator. The background check shall include a record of all arrests resulting in conviction and all arrest for which final disposition is pending. The Department of Justice shall retain these fingerprints in their files and shall provide any subsequent arrest information to the county clerk pursuant to Section 11105.2 of the Penal Code until notified by the county clerk that the person is no longer serving in the capacity of a private professional conservator. The superior court shall review the background fingerprint check prior to the appointment of a private professional conservator. The court shall review annual updates to the criminal background check on persons currently serving in the capacity of a private professional conservator under the court's jurisdiction. The background fingerprint check may be disposed with if the petitioner was appointed as a private professional conservator or served in the capacity of a private professional conservator during the previous year and a background fingerprint check was previously made.

(d) The information required by this section shall be confidential and shall be made available to the court for any purpose, including the determination of the appropriateness of appointing or continuing the appointment of, or removing, a conservator.

2343. The county clerk shall charge each private professional conservator an annual filing fee which does not exceed the annual per-conservator cost of complying with this article. This fee shall also include the cost of submitting the fingerprint card to the Department of Justice.

AMENDMENT 70

On page 158, line 16, strike out "conservatees" and insert:
conservatee

AMENDMENT 71

On page 159, line 9, strike out "(b)" and insert:
(c)

AMENDMENT 72

On page 159, line 23, strike out "(c)" and insert:
(d)

AMENDMENT 73

On page 169, between lines 20 and 21, insert:

2408. Nothing in this chapter limits or restricts the authority given the guardian or conservator under Article 11 (commencing with Section 2590) (independent exercise of powers) if the guardian or conservator has been given the authority to administer the estate under that article.

AMENDMENT 74

On page 173, line 32, strike out "eleven" and insert:
one thousand one

AMENDMENT 75

On page 173, line 35, strike out "eleven" and insert:
one thousand one

AMENDMENT 76

On page 176, line 33, strike out "by" and insert:
in

AMENDMENT 77

On page 181, line 35, strike out "prior"

AMENDMENT 78

On page 181, line 36, strike out "having an", strike out line 37, and insert:

in either of the following cases:

(1) Where under the

AMENDMENT 79

On page 181, line 38, strike out "(1)"

AMENDMENT 80

On page 181, line 40, after "years" insert a period

AMENDMENT 81

On page 182, strike out lines 1 and 2 and insert:

(2) Where the lease is from month to month, regardless of the amount of the rental.

(c) For the purposes of

AMENDMENT 82

On page 182, line 3, after "subdivision" insert:

(b)

AMENDMENT 83

On page 182, line 3, after "lease" insert:

as extended, renewed, or modified

AMENDMENT 84

On page 185, between lines 14 and 15, insert:

(c) The court may not shorten the time for giving the notice of hearing under this section.

AMENDMENT 85

On page 186, line 24, after "2540." insert:

(a)

AMENDMENT 86

On page 186, line 25, after the comma insert:

and except for the sale of a conservatee's personal residence as set forth in subdivision (b),

AMENDMENT 87

On page 186, between lines 28 and 29, insert:

(b) In seeking authorization to sell a conservatee's present or former personal residence, the conservator shall notify the court that the personal residence is proposed to be sold and that the conservator has discussed the proposed sale with the conservatee. In addition, the conservator shall inform the court whether the conservatee supports or is opposed to the proposed sale and shall describe the circumstances that necessitate the proposed sale, including whether the conservatee has the ability to live in the residence. The court, in its discretion, may require the court investigator to discuss the proposed sale with the conservatee. This subdivision shall not apply when the conservator is granted the power to sell real property of the estate pursuant to Section 2590.

AMENDMENT 88

On page 186, line 32, strike out "The" and insert:

Where the

AMENDMENT 89

On page 187, line 3, strike out "The" and insert:

Where the

AMENDMENT 90

On page 187, line 5, strike out "The" and insert:

Where the

AMENDMENT 91

On page 190, line 31, strike out "or notes"

AMENDMENT 92

On page 190, line 36, strike out "or purposes"

AMENDMENT 93

On page 191, line 39, strike out "or notes"

AMENDMENT 94

On page 192, strike out lines 1 and 2, and insert:
conservator.

AMENDMENT 95

On page 192, line 13, strike out "or notes"

AMENDMENT 96

On page 192, lines 20 and 21, strike out "or notes"

AMENDMENT 97

On page 192, line 24, strike out "the guardian or
conservator,"

AMENDMENT 98

On page 192, line 25, strike out the comma

AMENDMENT 99

On page 193, line 14, strike out "owners of the"

AMENDMENT 100

On page 195, line 10, after "or" strike out "a"

AMENDMENT 101

On page 211, line 26, strike out "of" and insert:

or

AMENDMENT 102

On page 212, line 13, after the second comma, insert:
directly

AMENDMENT 103

On page 212, line 14, after the period, insert:
Damages awarded pursuant to this section are a personal liability of
the guardian or conservator and a liability on the bond, if any.

AMENDMENT 104

On page 212, between lines 19 and 20, insert:

Article 2.5. Examination Concerning Assets of Estate

AMENDMENT 105

On page 212, line 20, strike out "section" and insert:
article

AMENDMENT 106

On page 213, line 2, strike out "section" and insert:
article

AMENDMENT 107

On page 213, line 6, after "allegations" insert:
made in the petition

AMENDMENT 108

On page 213, line 17, strike out "assets" and insert:
asserts

AMENDMENT 109

On page 213, strike out lines 23 to 28, and insert:
petition.

(d) Disobedience of a citation issued pursuant to this section may be punished as a contempt of the court issuing the citation.

2617. Interrogatories may be put to a person cited to answer interrogatories under Section 2616. The interrogatories and answers shall be in writing. The answers shall be signed under penalty of perjury by the person cited. The interrogatories and answers shall be filed with the court.

2618. (a) At an examination, witnesses may be produced and examined on either side.

(b) If upon the examination it appears that the allegations of the petition are true, the court may order the person to disclose the person's knowledge of the facts.

(c) If upon the examination it appears that the allegations of the petition are not true, the person's necessary expenses, including reasonable attorney's fees, shall be charged against the petitioner or allowed out of the estate, in the discretion of the court.

2619. (a) On petition of the guardian or conservator, the court may issue a citation to a person who has possession or control of property in the estate of the ward or conservatee to appear before the court and make an account under oath of the property and the person's actions with respect to the property.

(b) Disobedience of a citation issued pursuant to this section may be punished as a contempt of the court issuing the citation.

2619.5. A person who in bad faith has wrongfully taken, concealed, or disposed of property in the estate of the ward or conservatee is liable for twice the value of the property, recoverable in an action by the guardian or conservator for the benefit of the estate.

AMENDMENT 110

On page 214, between lines 38 and 39, insert:

2620.1. The account required of a conservator of the estate pursuant to Section 2620, who is also a conservator of the person, shall be accompanied by a status report on the conservatee, indicating the conservator's personal evaluation of the conservatee's health, general well-being, and functional level. This report shall include notification of any intent to change any significant circumstances in the conservatee's living arrangement, condition, or estate. The status report shall be confidential.

2620.2. (a) Whenever the conservator has failed to file an account as required by Section 2620, the court shall require that written notice be given to the conservator and the attorney of record for the conservatorship directing the conservator to file an account and to set the account for hearing before the court within 60 days of the date of the notice or, if the conservator is a public agency, within 120 days of the date of the notice.

(b) A citation shall be issued, served, and returned, requiring a conservator, who does not file an account as required by Section 2620, to appear and show cause why the conservator should not

be punished for contempt.

(c) If the conservator does not appear and file an account as required by Section 2620 after having been cited under subdivision (b), the conservator may be punished for contempt or removed as conservator, or both, in the discretion of the court.

AMENDMENT 111

On page 218, lines 25 and 26, strike out "attorney's court-approved" and insert:
court-approved attorney's

AMENDMENT 112

On page 219, line 21, strike out "assets" and insert:
property

AMENDMENT 113

On page 221, between lines 25 and 26, insert:
2633. Subject to Section 2630, where the guardianship or conservatorship terminates before the inventory of the estate has been filed, the court, in its discretion and upon such notice as the court may require, may make an order that the guardian or conservator need not file the inventory and appraisal and that the guardian or conservator shall file an account covering only those assets of the estate of which the guardian or conservator has possession or control.

AMENDMENT 114

On page 222, line 7, strike out the first "the" and insert:
such

AMENDMENT 115

On page 222, line 12, strike out "the" and insert:
such

AMENDMENT 116

On page 225, line 3, strike out "to render"

AMENDMENT 117

On page 226, line 6, after the period insert:

If the guardian or conservator fails to file the account as ordered, the court may compel the account pursuant to Section 2629.

AMENDMENT 118

On page 226, between lines 16 and 17, insert:

2655. (a) A guardian or conservator may be removed from office if the guardian or conservator is found in contempt for disobeying an order of the court.

(b) Notwithstanding any other provision of this article, a guardian or conservator may be removed from office under this section by a court order reciting the facts and without further showing or notice.

AMENDMENT 119

On page 234, line 12, strike out "If" and insert:

Unless the court makes an order dispensing with the notice, if

AMENDMENT 120

On page 240, line 6, strike out "county recorder,"

AMENDMENT 121

On page 240, line 7, strike out the comma

AMENDMENT 122

On page 240, line 12, strike out "protection" and insert:
preservation

AMENDMENT 123

On page 240, line 13, strike out "a"

AMENDMENT 124

On page 249, line 14, strike out "purchaser or encumbrancer"
and insert:
third person acting

AMENDMENT 125

On page 255, strike out line 40

AMENDMENT 126

On page 256, strike out lines 1 to 4, inclusive, and insert:
consideration, of any of the following:

(1) The property to this state or any public entity in this state, or to the United States or any agency or instrumentality of the United States, for any purpose.

(2) An easement over the property to any person for any purpose.

AMENDMENT 127

On page 256, lines 5 and 6, strike out "a public entity" and insert:

this state or any public entity in this state

AMENDMENT 128

On page 260, lines 29 and 30, strike out ", accompanied by a copy of the petition,"

AMENDMENT 129

On page 269, lines 4 and 5, strike out "valid and effective" and insert:

of the following instruments if valid and effective:

(1) A

AMENDMENT 130

On page 269, between lines 7 and 8, insert:

(2) A power of attorney for health care, whether or not a durable power of attorney.

AMENDMENT 131

On page 305, line 4, strike out "IN WRITTEN INSTRUMENTS" and insert:

RELATING TO EFFECT OF DEATH

AMENDMENT 132

On page 305, line 6, strike out "at" and insert:

on

AMENDMENT 133

On page 305, line 8, strike out "securities certificate" and insert:
certificated or uncertificated security

AMENDMENT 134

On page 305, line 12, strike out "or any" and insert:
deed of gift, marital property agreement, or

AMENDMENT 135

On page 305, line 13, strike out "is deemed to be nontestamentary and"

AMENDMENT 136

On page 305, line 19, strike out "theretofore"

AMENDMENT 137

On page 305, line 20, after "decedent" insert:
before death

AMENDMENT 138

On page 305, line 24, strike out "or subsequently" and insert:
, or later

AMENDMENT 139

On page 305, line 29, strike out "therefore"

AMENDMENT 140

On page 305, line 30, after "decedent" insert:
before death

AMENDMENT 141

On page 305, line 34, strike out "or subsequently" and insert:
, or later

AMENDMENT 142

On page 310, between lines 17 and 18, insert:

(c) The purpose of this section is to provide a definition for the purpose of determining ownership interests in an account as between the parties to the account, and not as between the parties and the financial institution.

AMENDMENT 143

On page 311, line 15, strike out "A" and insert:

Except to the extent the terms of the account or deposit agreement expressly provide otherwise, a

AMENDMENT 144

On page 313, line 36, strike out "account/certificate" and insert:

account or certificate

AMENDMENT 145

On page 314, line 9, strike out "earlier" and insert:

earliest

AMENDMENT 146

On page 314, line 37, strike out "and" and insert:

if

AMENDMENT 147

On page 315, between lines 22 and 23, insert:

5205. This part applies to accounts in existence on July 1, 1990, and accounts thereafter established.

AMENDMENT 148

On page 315, line 27, strike out "A" and insert:

An

AMENDMENT 149

On page 320, line 20, strike out "inquire" and insert:

do any of the following:

(1) Inquire

AMENDMENT 150

On page 320, line 21, strike out the second "to"

AMENDMENT 151

On page 320, between lines 23 and 24, insert:

(2) Determine any party's net contribution.

(3) Limit withdrawals or any other use of an account based on the net contribution of any party, whether or not the financial institution has actual knowledge of each party's contribution.

(d) All funds in an account, unless otherwise agreed in writing by the financial institution and the parties to the account, remain subject to liens, security interests, rights of setoff, and charges, notwithstanding the determination or allocation of net contributions with respect to the parties.

AMENDMENT 152

On page 323, line 16, strike out "his or her" and insert:
the individual's

AMENDMENT 153

On page 323, line 17, strike out "his or her" and insert:
the individual's

AMENDMENT 154

On page 323, lines 17 and 18, strike out "his or her"

AMENDMENT 155

On page 323, line 23, strike out "person's" and insert:
individual's

AMENDMENT 156

On page 323, line 25, strike out "he or she" and insert:
the individual

AMENDMENT 157

On page 360, line 22, strike out "and 6226" and insert:
6226, 6243, 6245, and 6246

AMENDMENT 158

On page 366, line 4, strike out "representttive" and insert:
representative

AMENDMENT 159

On page 377, line 23, strike out "Section 6408.5" and insert:
subdivisions (b), (c), and (d),

AMENDMENT 160

On page 377, line 30, after "(b)" insert:

The relationship of parent and child does not exist between an adopted person and the person's natural parent unless both of the following requirements are satisfied:

(1) The natural parent and the adopted person lived together at any time as parent and child, or the natural parent was married to or was cohabiting with the other natural parent at the time the child was conceived and died before the birth of the child.

(2) The adoption was by the spouse of either of the natural parents or after the death of either of the natural parents.

(c) Neither a parent nor a relative of a parent (except for the issue of the child or a wholeblood brother or sister of the child or the issue of such brother or sister) inherits from or through a child on the basis of the relationship of parent and child if the child has been adopted by someone other than the spouse or surviving spouse of that parent.

(d) If a child is born out of wedlock, neither a parent nor a relative of a parent (except for the issue of the child or a natural brother or sister of the child or the issue of that brother or sister) inherits from or through the child on the basis of the relationship of parent and child between that parent and child unless both of the following requirements are satisfied:

(1) The parent or a relative of the parent acknowledged the child.

(2) The parent or a relative of the parent contributed to the support or the care of the child.

(e)

AMENDMENT 161

On page 377, line 40, strike out "(c)" and insert:
(f)

AMENDMENT 162

On page 378, lines 1 and 2, strike out "Section 6408 and 6408.5" and insert:
this section

AMENDMENT 163

On page 378, line 17, strike out "(d)" and insert:
(g)

AMENDMENT 164

On page 378, strike out lines 20 to 40, inclusive, and on page 379, strike out lines 1 to 10, inclusive

AMENDMENT 165

On page 386, lines 33 and 34, strike out "AND CHILDREN UNPROVIDED FOR IN" and insert:
OR CHILD OMITTED FROM

AMENDMENT 166

On page 386, line 39, strike out "his or her" and insert:
the testator's

AMENDMENT 167

On page 389, line 38, strike out "1" and insert:

2

AMENDMENT 168

On page 390, line 24, after "age" insert a comma

AMENDMENT 169

On page 391, line 21, strike out "for the order of" and insert:
of the order for

AMENDMENT 170

On page 392, line 10, strike out "this" and insert:

the

AMENDMENT 171

On page 394, line 5, strike out "and" and insert:

or

AMENDMENT 172

On page 396, strike out line 28

AMENDMENT 173

On page 396, line 31, strike out "his or her" and insert:

the decedent's

AMENDMENT 174

On page 396, line 38, strike out "chapter" and insert:

part

AMENDMENT 175

On page 396, line 40, strike out "chapter" and insert:

part

AMENDMENT 176

On page 397, lines 16 and 17, strike out "Division 7
(commencing with Section 7000)" and insert:

this code

AMENDMENT 177

On page 397, lines 39 and 40, strike out "Division 7
(commencing with Section 7000)" and insert:

this code

AMENDMENT 178

On page 398, line 22, strike out "chapter" and insert:

part

AMENDMENT 179

On page 398, line 29, strike out "chapter" and insert:
part

AMENDMENT 180

On page 399, line 32, strike out "division" and insert:
code concerning the administration of the decedent's estate

AMENDMENT 181

On page 401, line 32, strike out "A" and insert:
In proceedings under this code concerning the administration of the
decedent's estate, a

AMENDMENT 182

On page 403, between lines 23 and 24, insert:

Article 3.5. Judgments and Orders

7250. (a) When a judgment or order made pursuant to the provisions of this code concerning the administration of the decedent's estate becomes final, it releases the personal representative and the sureties from all claims of the heirs or devisees and of any persons affected thereby based upon any act or omission directly authorized, approved, or confirmed in the judgment or order. For the purposes of this section, "order" includes an order settling an account of the personal representative, whether an interim or final account.

(b) Nothing in this section affects any order, judgment, or decree made, or any action taken, before July 1, 1988. The validity of any action taken before July 1, 1988, is determined by the applicable law in effect before July 1, 1988, and not by this section.

AMENDMENT 183

On page 406, line 34, strike out "county recorder,"

AMENDMENT 184

On page 406, line 35, strike out the comma

AMENDMENT 185

On page 407, line 2, after "to" insert:
reasonable

AMENDMENT 186

On page 407, line 4, strike out "a"

AMENDMENT 187

On page 407, lines 5 and 6, strike out "and legal charge
against the decedent's estate as an"

AMENDMENT 188

On page 407, line 40, strike out "1" and insert:
one

AMENDMENT 189

On page 408, line 13, strike out "administator" and insert:
administrator

AMENDMENT 190

On page 411, line 32, strike out "division" and insert:
code concerning the administration of the decedent's estate

AMENDMENT 191

On page 412, strike out lines 8 to 16, inclusive, and insert:
estate, in the order prescribed in Section 11420, for expenses of
administration, charges against the estate, and claims presented to the
public administrator before distribution of the decedent's property
pursuant to Section 7663. A creditor whose claim is

AMENDMENT 192

On page 416, line 27, after the first "of" insert:
extrinsic

AMENDMENT 193

On page 418, line 28, after "General" insert:
as provided in Section 1209

AMENDMENT 194

On page 419, line 19, after "city" insert a comma

AMENDMENT 195

On page 427, strike out line 18 and insert:
representative (other than a trust company or a public administrator)
shall file an

AMENDMENT 196

On page 427, line 20, after "office" insert:
of personal representative

AMENDMENT 197

On page 427, strike out lines 21 and 22

AMENDMENT 198

On page 427, line 23, after the period, insert:
(b)

AMENDMENT 199

On page 427, line 28, strike out "(b)" and insert:
(c)

AMENDMENT 200

On page 427, lines 28 and 29, strike out ", whether in the
form provided in subdivision (c) or"

AMENDMENT 201

On page 427, line 30, strike out the comma

AMENDMENT 202

On page 427, strike out lines 32 to 40, inclusive, and strike
out pages 428 and 429

AMENDMENT 203

On page 430, strike out line 1

AMENDMENT 204

On page 433, line 4, strike out "peson" and insert:
person

AMENDMENT 205

On page 443, lines 26 and 27, strike out "liable to a
creditor" and insert:
a proper party to an action

AMENDMENT 206

On page 443, line 40, strike out "The" and insert:
Subject to Section 8543, the

AMENDMENT 207

On page 454, line 7, strike out "by mail"

AMENDMENT 208

On page 457, line 39, strike out "shall have" and insert:
has

AMENDMENT 209

On page 460, line 32, strike out "by mail"

AMENDMENT 210

On page 460, line 33, after "Sacramento" insert a comma

AMENDMENT 211

On page 461, line 6, strike out "Provisions" and insert:
Provision

AMENDMENT 212

On page 463, lines 32 and 33, strike out "or attorney for the
personal representative in good faith"

AMENDMENT 213

On page 463, line 36, strike out "or attorney"

AMENDMENT 214

On page 463, lines 39 and 40, strike out "or attorney for the personal representative in good faith"

AMENDMENT 215

On page 464, lines 1 and 2, strike out "or attorney"

AMENDMENT 216

On page 464, line 2, strike out the period, strike out lines 3 and 4, and insert:

, unless a creditor establishes all of the following:

(1) The failure was in bad faith.

(2) Neither the creditor nor the attorney representing the creditor in the matter had actual knowledge of the administration of the estate before the court made an order for final distribution, and payment would have been made on the creditor's claim in the course of administration if the claim had been properly filed.

(3) Within 16 months after letters were first issued to a general personal representative, the creditor did both of the following:

(A) Filed a petition requesting that the court in which the estate was administered make an order determining the liability of the personal representative under this subdivision.

(B) At least 30 days before the hearing on the petition, caused notice of the hearing and a copy of the petition to be served on the personal representative in the manner provided in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

(c) Nothing in this section affects the liability of the estate, if any, for the claim of a creditor, and the personal representative is not liable for the claim to the extent it is paid out of the estate.

AMENDMENT 217

On page 464, line 5, strike out "(c)" and insert:

(d)

AMENDMENT 218

On page 464, lines 6 and 7, strike out "or attorney for the personal representative"

AMENDMENT 219

On page 466, line 14, after the period, insert:
An amendment or revision of a claim to specify the amount of a claim that, at the time of filing, was not due, was contingent, or was not yet ascertainable, is not an increase in the amount of the claim within the meaning of this subdivision.

(c)

AMENDMENT 220

On page 466, line 32, strike out "a person" and insert:
the person acting

AMENDMENT 221

On page 471, line 2, strike out "division" and insert:
code concerning the administration of the decedent's estate

AMENDMENT 222

On page 472, lines 6 and 7, strike out "of Division 7"

AMENDMENT 223

On page 472, lines 19 and 20, strike out "of Division 7"

AMENDMENT 224

On page 473, line 14, strike out "of Division 7"

AMENDMENT 225

On page 476, line 3, strike out "462.100" and insert:
482.100

AMENDMENT 226

On page 476, line 8, strike out "no" and insert:
No

AMENDMENT 227

On page 480, between lines 22 and 23, insert:

9606. Unless otherwise provided in the instrument or in this division, a personal representative is not personally liable on an instrument, including but not limited to a note, mortgage, deed of trust, or other contract, properly entered into in the personal representative's fiduciary capacity in the course of administration of the estate unless the personal representative fails to reveal the personal representative's representative capacity or identify the estate in the instrument.

AMENDMENT 228

On page 481, strike out lines 6 to 15, inclusive

AMENDMENT 229

On page 482, line 32, strike out "5for" and insert:

for

AMENDMENT 230

On page 485, line 7, strike out "of this division" and insert a close parenthesis

AMENDMENT 231

On page 487, line 30, strike out the period and insert a comma

AMENDMENT 232

On page 489, line 21, strike out "ADVISORS" and insert:

ADVISERS

AMENDMENT 233

On page 489, line 30, strike out "advisors" and insert:

advisers

AMENDMENT 234

On page 489, line 31, strike out "advisors" and insert:

advisers

AMENDMENT 235

On page 490, line 27, strike out "by mail"

AMENDMENT 236

On page 490, lines 31 and 32, strike out "in the best interest of the estate and of those interested in the estate" and insert:

to the advantage of the estate and in the best interest of the interested persons

AMENDMENT 237

On page 491, line 2, after "estate" insert:
as a proper expense of administration

AMENDMENT 238

On page 492, line 1, strike out "by mail"

AMENDMENT 239

On page 492, line 6, strike out "in" and insert:
is

AMENDMENT 240

On page 492, line 28, strike out "peitition" and insert:
petition

AMENDMENT 241

On page 501, line 20, strike out "by mail"

AMENDMENT 242

On page 505, line 38, after "Order" insert:
that

AMENDMENT 243

On page 506, line 35, strike out "The personal" and strike out lines 36 to 38, inclusive

AMENDMENT 244

On page 509, line 32, strike out "having", strike out line 33, and insert:

in either of the following cases:

(1) Where under the

AMENDMENT 245

On page 509, line 34, strike out "(1)"

AMENDMENT 246

On page 509, line 36, after "year" insert a period

AMENDMENT 247

On page 509, strike out lines 37 and 38, and insert:

(2) Where the lease is from month to month, regardless of the amount of the rental.

(c) For the purposes of

AMENDMENT 248

On page 509, line 39, after "subdivision" insert:

(b)

AMENDMENT 249

On page 509, line 39, after "lease" insert:

as extended, renewed, or modified

AMENDMENT 250

On page 516, line 20, strike out the period and insert:

to all of the following persons:

AMENDMENT 251

On page 517, lines 15 and 16, strike out "ENTITY OF EASEMENT OR ACCESS RIGHT" and insert:

ENTITY; EASEMENT AND ACCESS RIGHTS

AMENDMENT 252

On page 522, line 18, strike out "to administer" and insert:

in proceedings under this code concerning the administration of

AMENDMENT 253

On page 522, line 19, strike out "shall be effectual to vest"
and insert:
vests

AMENDMENT 254

On page 523, line 7, strike out "by a probate referee" and
insert:
in the manner provided in subdivision (c) of Section 10309

AMENDMENT 255

On page 527, between lines 26 and 27, insert:
10006. If property in the estate to be sold is an undivided
interest in a cotenancy, the cotenants may file in the estate
proceeding written consent to have their interests sold pursuant to
this chapter. Thereafter, the court's orders made pursuant to this
chapter are as binding on the consenting cotenants as on the personal
representative.

AMENDMENT 256

On page 530, line 13, strike out the first "a" and insert:
an agent or

AMENDMENT 257

On page 530, line 14, strike out "real"

AMENDMENT 258

On page 530, line 18, after the first "the" insert:
agent or

AMENDMENT 259

On page 530, line 20, after the first "the" insert:
agent or

AMENDMENT 260

On page 532, line 5, strike out the period

AMENDMENT 261

On page 532, line 7, after "bid" insert a period

AMENDMENT 262

On page 532, strike out lines 24 to 40, inclusive

AMENDMENT 263

On page 533, strike out lines 1 to 40, inclusive

AMENDMENT 264

On page 534, strike out lines 1 to 27, inclusive, and insert:
10162.6. (a) This section applies if both of the following
circumstances exist:

(1) An agent or broker holds a contract under Section 10150
granting the exclusive right to sell the property.

(2) The contract provides that no compensation is payable to
the agent or broker holding the contract if sale is confirmed to a
particular purchaser named in the contract.

(b) If the court confirms the sale to the purchaser named in
the contract, whether on an original bid returned to the court or on an
increased bid made at the time of the hearing on the petition for
confirmation, the compensation of any agents or brokers involved in the
sale is determined as provided in this article, except that no
compensation is payable to the agent or broker holding the contract.

(c) If the court confirms the sale to a purchaser other than
the person named in the contract, whether on an original bid returned
to the court or on an increased bid made at the time of the hearing on
the petition for confirmation, the compensation of the agent or broker
holding the contract, and of any other agents or brokers involved in
the sale, is determined under this article as if the limitation in the
contract did not exist.

AMENDMENT 265

On page 534, line 28, strike out "This" and insert:
Subject to Section 10162.6, this

AMENDMENT 266

On page 545, strike out lines 18 and 19 and insert:
postponement is to the advantage of the estate.

AMENDMENT 267

On page 549, strike out line 39 and insert:
which the real property or some portion thereof is located or (2)

AMENDMENT 268

On page 563, line 9, strike out "the act that added this
subdivision" and insert:

Chapter [AB831] of the Statutes of 1990

AMENDMENT 269

On page 563, line 13, strike out "the act that added this
subdivision" and insert:

Chapter [AB831] of the Statutes of 1990

AMENDMENT 270

On page 563, lines 16 and 17, strike out "the act that added
this subdivision" and insert:

Chapter [AB831] of the Statutes of 1990

AMENDMENT 271

On page 564, strike out line 8 and insert:

(1) Each person listed in Section 1220.

AMENDMENT 272

On page 564, line 9, strike out "(ii)" and insert:

(2)

AMENDMENT 273

On page 567, line 38, strike out "Allow, pay, or compromise"
and insert:

Allowance, payment, or compromise of

AMENDMENT 274

On page 568, line 2, strike out "settle" and insert:
settlement of

AMENDMENT 275

On page 568, line 7, strike out "Extend, renew, or modify"
and insert:
Extension, renewal, or modification of

AMENDMENT 276

On page 568, line 19, strike out "Borrow" and insert:
Borrowing

AMENDMENT 277

On page 578, line 1, strike out "advisors" and insert:
advisers

AMENDMENT 278

On page 578, line 2, strike out "advisors" and insert:
advisers

AMENDMENT 279

On page 578, strike out line 17

AMENDMENT 280

On page 578, line 22, strike out "article" and insert:
chapter

AMENDMENT 281

On page 578, line 32, strike out "article" and insert:
chapter

AMENDMENT 282

On page 579, line 11, after "Part 2" insert:
of Division 3

AMENDMENT 283

On page 579, line 14, strike out "by mail"

AMENDMENT 284

On page 579, line 16, strike out "would be"

AMENDMENT 285

On page 581, line 5, strike out "advisors" and insert:
advisers

AMENDMENT 286

On page 583, line 18, after the comma, insert:
(1) file a petition under Section 9684 if the proposed action involves the exercise of a power granted by Section 10565 or (2)

AMENDMENT 287

On page 583, line 20, strike out "and" and insert:
if the proposed action involves any other power. The personal representative

AMENDMENT 288

On page 583, line 32, strike out "taken; and, except" and insert:
taken. Except

AMENDMENT 289

On page 588, line 26, strike out "1" and insert:
one

AMENDMENT 290

On page 589, line 12, strike out "represenatitve" and insert:
representative

AMENDMENT 291

On page 589, line 20, strike out "by mail"

AMENDMENT 292

On page 590, line 19, strike out "by mail"

AMENDMENT 293

On page 591, line 5, strike out "by mail"

AMENDMENT 294

On page 593, line 9, after "not" insert:
the filing of the account was

AMENDMENT 295

On page 596, line 30, after "1220" insert a period

AMENDMENT 296

On page 596, line 37, strike out "by mail"

AMENDMENT 297

On page 597, line 7, strike out "fees" and insert:
allowance of all or a portion of the compensation of the personal
representative

AMENDMENT 298

On page 600, line 5, strike out "Preliminary Provisions" and
insert:
Proceedings Commenced Before July 1, 1988

AMENDMENT 299

On page 600, lines 14 and 15, strike out "the act that
enacted this section" and insert:
Chapter 923 of the Statutes of 1987

AMENDMENT 300

On page 605, line 38, strike out "(1)" and insert:
(a)

AMENDMENT 301

On page 605, line 39, strike out "(2)" and insert:
(b)

AMENDMENT 302

On page 606, line 2, strike out "(3)" and insert:

(c)

AMENDMENT 303

On page 606, line 5, strike out "(4)" and insert:

(d)

AMENDMENT 304

On page 606, line 5, strike out "by mail"

AMENDMENT 305

On page 606, line 10, strike out "(5)" and insert:

(e)

AMENDMENT 306

On page 608, lines 37 and 38, strike out "a petition shall be filed" and insert:

the personal representative shall file a petition

AMENDMENT 307

On page 609, line 25, strike out the comma

AMENDMENT 308

On page 610, line 5, strike out "(1)" and insert:

(a)

AMENDMENT 309

On page 610, line 6, strike out "(2)" and insert:

(b)

AMENDMENT 310

On page 610, line 9, strike out "(3)" and insert:

(c)

AMENDMENT 311

On page 610, line 12, strike out "(4)" and insert:

(d)

AMENDMENT 312

On page 610, line 12, strike out "by mail"

AMENDMENT 313

On page 611, line 5, strike out "all" and insert:

as

AMENDMENT 314

On page 611, line 6, strike out ", including"

AMENDMENT 315

On page 611, line 31, strike out "good faith purchaser of the property for value" and insert:

third person acting in good faith and for a valuable consideration

AMENDMENT 316

On page 612, line 15, strike out "or location"

AMENDMENT 317

On page 613, line 28, strike out "accept or"

AMENDMENT 318

On page 615, line 35, strike out "or location"

AMENDMENT 319

On page 616, line 35, strike out "with the clerk"

AMENDMENT 320

On page 617, line 17, strike out "of" and insert:

with

AMENDMENT 321

On page 617, line 17, after "to" insert:

the value of

AMENDMENT 322

On page 618, line 22, strike out "decedent's" and insert:
testator's

AMENDMENT 323

On page 618, line 27, strike out "decedent's" and insert:
testator's

AMENDMENT 324

On page 618, line 30, strike out "decedent's" and insert:
testator's

AMENDMENT 325

On page 619, line 2, strike out "tax" and insert:
and generation-skipping transfer taxes

AMENDMENT 326

On page 619, line 19, strike out "thereafter" and insert:
thereafter, but no interest accrues during the first year after the
testator's death

AMENDMENT 327

On page 621, lines 16 and 17, strike out "continue, as
provided in Section 12201," and insert:
continue

AMENDMENT 328

On page 621, line 18, strike out "distribution" and insert:
distribution, as provided in Section 12201

AMENDMENT 329

On page 622, line 28, after "12250." insert:
(a)

AMENDMENT 330

On page 622, line 31, after "receipt" insert:
as provided in Section 11753

AMENDMENT 331

On page 622, between lines 33 and 34, insert:

(b) Nothing in this section precludes discharge of the personal representative for distribution made without prior court order, so long as the terms of the order for final distribution are satisfied.

AMENDMENT 332

On page 623, line 14, after "to" insert:

an

AMENDMENT 333

On page 623, line 20, after "and" insert:

to

AMENDMENT 334

On page 624, line 19, strike out "(o)" and insert:

(r)

AMENDMENT 335

On page 629, line 11, strike out "All" and insert:

One or more

AMENDMENT 336

On page 631, strike out lines 29 to 40, inclusive

AMENDMENT 337

On page 634, line 16, strike out the second "1" and insert:

2

AMENDMENT 338

On page 635, line 6, after the period insert:

In the case of a trust that is subject to continuing jurisdiction of the court pursuant to Chapter 4 (commencing with Section 17300) of Part 5 of Division 9, the trustee may act on behalf of the trust without the need to obtain approval of the court.

AMENDMENT 339

On page 635, between lines 17 and 18 insert:

(e) The attorney in fact authorized under a durable power of attorney may act on behalf of the beneficiary giving the power of attorney.

AMENDMENT 340

On page 635, line 26, strike out "is made" and insert:
was made prior to July 1, 1987,

AMENDMENT 341

On page 635, lines 27 and 28, strike out "prior to July 1, 1987" and insert:
repealed by Chapter 783 of the Statutes of 1986.

AMENDMENT 342

On page 635, line 29, strike out "On and after July 1, 1987, a" and insert:
A

AMENDMENT 343

On page 640, line 22, after "award" insert:
reasonable

AMENDMENT 344

On page 641, strike out lines 35 and 36

AMENDMENT 345

On page 641, line 37, strike out "obligor on the debt" and insert:

(2) A third person acting in good faith and for a valuable consideration

AMENDMENT 346

On page 642, strike out lines 2 and 3

AMENDMENT 347

On page 642, line 4, strike out "debt" and insert:
third person acting in good faith and for a valuable consideration

AMENDMENT 348

On page 643, lines 29 and 30, strike out "subdivisions (b),
(c), (d), and (e)" and insert:
the provisions of this section

AMENDMENT 349

On page 643, line 36, after "with" insert:
(A)

AMENDMENT 350

On page 643, line 37, after "property" insert:
and (B) if the person encumbered the property after it was delivered or
transferred to the person, the amount necessary to satisfy the balance
of the encumbrance as of the date the property is restored to the
estate.

AMENDMENT 351

On page 651, lines 25 and 26, strike out "form, content, and
manner of making the"

AMENDMENT 352

On page 651, line 27, strike out "as set forth" and insert:
made as provided

AMENDMENT 353

On page 652, strike out lines 17 and 18, and insert:
13203. (a) A third person acting in good faith and for a
valuable consideration with a

AMENDMENT 354

On page 652, line 23, strike out "purchaser, lessee, or
lender" and insert:
third person

AMENDMENT 355

On page 653, line 24, strike out "five" and insert:
three

AMENDMENT 356

On page 653, strike out lines 25 to 28, inclusive, and insert:
affidavit is issued under Section 13202 or three years after the
discovery of the fraud, whichever is later. The three-year period
specified in this subdivision is not tolled for any reason.

AMENDMENT 357

On page 653, line 37, after "with" insert:
(A)

AMENDMENT 358

On page 653, line 38, after "property" insert:
and (B) if the person encumbered the property after the certified copy
of the affidavit was issued, the amount necessary to satisfy the
balance of the encumbrance as of the date the property is restored to
the estate.

AMENDMENT 359

On page 656, lines 34 and 35, strike out "Division 7
(commencing with Section 7000)" and insert:
this code

AMENDMENT 360

On page 657, strike out line 12, and insert:
under this code:

AMENDMENT 361

On page 660, lines 32 and 33, strike out "Division 7
(commencing with Section 7000)" and insert:
this code

AMENDMENT 362

On page 663, line 26, after "award" insert:
reasonable

AMENDMENT 363

On page 664, strike out line 28, and insert:
this code.

AMENDMENT 364

On page 665, line 20, strike out "(7)" and insert:
(5)

AMENDMENT 365

On page 666, line 18, strike out "chapter or," and insert:
chapter, or

AMENDMENT 366

On page 667, lines 36 and 37, strike out "Division 7
(commencing with Section 7000)" and insert:
this code

AMENDMENT 367

On page 668, strike out line 34, and insert:
form provided in Section 8802 and made as provided in

AMENDMENT 368

On page 670, between lines 8 and 9, insert:

15001. Except as otherwise provided by statute:

(a) This division applies to all trusts regardless of whether
they were created before, on, or after July 1, 1987.

(b) This division applies to all proceedings concerning
trusts commenced on or after July 1, 1987.

(c) This division applies to all proceedings concerning
trusts commenced before July 1, 1987, unless in the opinion of the
court application of a particular provision of this division would
substantially interfere with the effective conduct of the proceedings
or the rights of the parties and other interested persons, in which
case the particular provision of this division does not apply and prior
law applies.

AMENDMENT 369

On page 676, line 18, after the period insert:

If, however, the trust results in the individual being ineligible for needed public social services under Division 9 (commencing with Section 1000) of the Welfare and Institutions Code, this subdivision is not applicable and the provisions of subdivision (a) are to be applied.

AMENDMENT 370

On page 686, strike out lines 13 to 31, inclusive, and insert:

15645. If the trustee of a trust that is not revocable has refused to transfer administration of the trust to a successor trust company on request of the beneficiaries described in subdivision (c) of Section 15640 and the court in subsequent proceedings under Section 17200 makes an order removing the existing trustee and appointing a trust company as successor trustee, the court may, in its discretion, award costs and reasonable attorney's fees incurred by the petitioner in the proceeding to be paid by the trustee or from the trust as ordered by the court.

AMENDMENT 371

On page 703, line 5, after "alterations," insert:

or

AMENDMENT 372

On page 716, strike out lines 32 to 34, inclusive, and insert:

Chapter 8 (commencing with Section 12000) of Part 10 of Division 7, to the date of the testator's death means the date of the settlor's death or other event upon which the distributee's right to receive the gift occurs.

AMENDMENT 373

On page 722, line 15, after "facts" insert:

(A)

AMENDMENT 374

On page 722, line 15, after "and" insert:

(B)

AMENDMENT 375

On page 740, lines 25 and 26, strike out "purchasers from the trustee without notice" and insert:
a third person dealing with the trustee in good faith

AMENDMENT 376

On page 741, lines 10 and 11, strike out "purchaser or encumbrancer" and insert:
third person acting

AMENDMENT 377

On page 744, line 29, strike out "4981" and insert:
4980A

AMENDMENT 378

On page 744, line 30, strike out "4981" and insert:
4981A

AMENDMENT 379

On page 744, line 32, after "99-514)" insert:
, renumbered as Section 4980A by Section 1011A of Public Law 100-647 of 1988,

AMENDMENT 380

On page 744, line 34, strike out "4981(d)(3)" and insert:
4980A(d)(3)

AMENDMENT 381

On page 744, line 37, strike out "4981(d)" and insert:
4980A(d)

AMENDMENT 382

On page 753, strike out lines 25 to 32, inclusive, and insert:
21305. (a) A beneficiary may apply to the court for a determination whether a particular motion, petition, or other act by the beneficiary would be a contest within the terms of a no contest clause.

(b) A no contest clause is not enforceable against a beneficiary to the extent an application under subdivision (a) by the beneficiary is limited to the procedure and purpose described in subdivision (a) and does not require a determination of the merits of the motion, petition, or other act by the beneficiary.

(c) A determination of whether Section 21306 or 21307 would apply in a particular case may not be made under this section.

AMENDMENT 383

On page 757, line 20, after "Recovery" insert:

Tax

AMENDMENT 384

On page 760, following line 6, insert:

SEC. 3. This act becomes operative on July 1, 1991.