

Memorandum 86-49

Subject: Study L-1040 - Estate and Trust Code (Public Administrators--
draft of tentative recommendation)

Attached to this memorandum is a draft of the tentative recommendation relating to public administrators, revised in conformity with decisions made at the March 1986 Commission meeting. There were two matters on which the Commission deferred decision, pending receipt of further information:

§ 7683. Distribution of property. The Commission raised the question whether unclaimed property administered by the public administrator should go to the county rather than escheat to the State, since the county supports the office of the public administrator.

Critical to this question is the amount of property we are concerned with, and how great a political issue it would be for the State. James R. Scannell, Public Administrator for the City and County of San Francisco, has forwarded us relevant data for 1985 in the form of information releases from the State Controller. See Exhibit 1. During 1985 a total of 944 unclaimed estates were delivered to the State Controller amounting to \$3,578,670, for an average of \$3791 per estate. Unclaimed estates are held for 5 years before they permanently escheat to the estate. The total number of estates accumulated by the State Controller at the end of 1985 was 9,424 valued at \$18,813,305, averaging \$1996 per estate.

Can any conclusions be drawn from these numbers? If we assume that somewhat in excess of \$3 million permanently escheats to the State annually, the amount appears sufficiently large that the State would most likely take an active interest in retaining the funds.

On the other hand, Mr. Scannell points out that the numbers demonstrate the burden imposed on large counties from which most of the escheated estates come. He notes that increasingly difficult estates are placed with public administrators from the private sector because they are unprofitable. The public administrators regularly handle

will contests, family squabbles, and other problems the courts ask them into, thereby further burdening the county. "I do feel that if a person dies intestate with no heirs, the small amount of money left over should remain in the county they resided in. These people are the prime users of public transportation, libraries, social services and other county maintained services." (Exhibit 1)

An alternative thought that the public administrators originally raised, before we started investigating taking escheated funds from the State, is simply to allow the public administrator the reasonable cost of administration of an estate that escheats. The argument is that if the estate is uneconomical to administer, why should the state get the benefit as opposed to the county in cases where the county has borne the cost of administration?

§ 7685. Public administrator's statement of disposition. The Commission requested information relating to general record keeping and disposal requirements by the public administrator. The staff has been unable to locate any general record preservation requirements applicable to county officers. However, Probate Code Section 925 does require a personal representative to "keep vouchers for all payments which he has made." The vouchers may be destroyed one year after the decree of final distribution has become final or, if an interested person has made a written request that the vouchers be retained, three years after the decree of final distribution has become final. The tentative drafts of the new Estate and Trust Code abandon the voucher system, together with the voucher preservation requirements, replacing them with a receipt system.

Respectfully submitted,

Nathaniel Sterling
Assistant Executive Secretary

City and County of San Francisco



PUBLIC ADMINISTRATOR
PUBLIC GUARDIAN
1212 Market Street
San Francisco, CA 94102
Telephone 558-4161

PUBLIC ADMINISTRATOR
PUBLIC GUARDIAN:
James R. Scannell

ATTORNEY:
Lou Aronian

April 4, 1986

California Law Revision Committee
4000 Middlefield Road
Palo Alto, CA 94306

ATTN: Nathaniel Sterling

IN REPLY REFER
TO OUR FILE NO

Re: Escheatment

Dear Mr. Sterling:

Enclosed please find copies of the escheatments received by the State Controller during 1985.

As you can see most of the escheatments come from a few large counties, just the ones that are in most need due to the increased burden placed on them.

More and more difficult estates are placed with the Public Administrators from the private sector because of the lack of profitability. We regularly handle will contests, family squabbles and other problems that the courts ask us into.

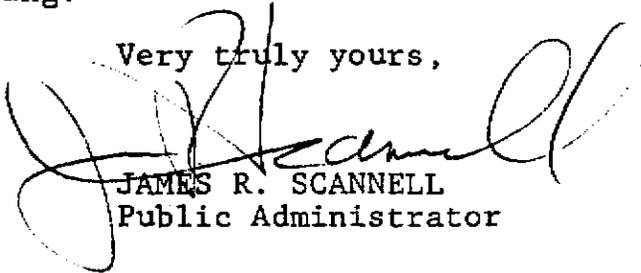
I don't protest our role, but I do feel that if a person dies intestate with no heirs, the small amount of money left over should remain in the county they resided in.

These people are the prime users of public transportation, libraries, social services and other county maintained services.

I do hope that your committee will consider changing the final depository from the State to the County treasury on Section 1143 estates (Summary Probate).

After reviewing the Agenda, I decided to pass on Eureka and attend the May meeting.

Very truly yours,


JAMES R. SCANNELL
Public Administrator

JRS:mtc
Enclosures

OFFICE OF THE CONTROLLER
Kenneth Cory
State Capitol
Sacramento, CA

For Release
April 17, 1985

CONTACT: John Chen
(916) 445-7216

SACRAMENTO -- State Controller Kenneth Cory today reported that the proceeds from liquidation of 189 unclaimed estates with a total value of \$697,785 were received by his office during the months of January, February and March, and are being held in safekeeping for the rightful owners.

"During our custody of this property our principal goal will be to restore it to the legal owners," Cory said. "Inquiries about any of the estates should be directed to State Controller, Division of Unclaimed Property, P. O. Box 1019, Sacramento, CA 95805."

Estates permanently escheat to the State if still unclaimed five years after being turned over to the Controller. On March 31, the Controller was in custody of an accumulation of 9,557 estates valued at \$18,740,637 and still subject to claim. _____ County accounted for _____ of the estates received during the three months. Estates received from _____ County and valued at more than \$1,000 are included in the following:

(Enclosed tabulation shows total number of estates received from each county and gives names of decedents in those valued at \$1,000 or more.)

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PUBLIC ADMINISTRATOR
PUBLIC GUARDIAN

County & Name of Decedent in No. Rec'd Estates Over \$1000	Amount
ALAMEDA (4)	
Stanley Olsen	\$11,221
Alice Wachsner	2,509
COLUSA (1)	
McLaughlin Carl Martin	1,071
CONTRA COSTA (1)	
Gerald H. Von Tichy	4,382
FRESNO (2)	
Leria Wilson	1,552
KERN (3)	
Esteban Sandoval	1,374
LOS ANGELES (130)	
John Adams	3,406
Kendall William Alleyn	2,218
Raymond Anderson	10,400
John Bailey	1,732
Lucille M. Batte	3,756
Irving Bierman	16,246
Julia S. Borjeson	8,543
Glenn M. Bown	11,749
James J. Coyle	1,111
Charlotte DeLong	3,345
Bessie DeWitt	1,179
Stephen DoBos	1,225
Lorena Doray	2,621
Carl Emge	1,998
Axel Evenson	1,515
Ralph Garlough	3,168
Wilbur Arnold Goyschall	1,639
Manuel Granados	4,422
Jesse Haddock	14,570
Cecil A. Harper	5,528
Charlotte Harrison	4,919
Lillian Hatt	1,153
William Henry Heard	4,186
Leslie Heller	1,146
John Henis	4,415
Joan Emerson Hitchcock	2,184
Gladys Mildered Horton	1,447
John Howard aka John H. Russell	1,029
Teresa N. Huber	1,770
Paul M. Hudson	3,914
Henry Hyatt	8,799
Richard Irving	1,177

County & Name of Decedent in No. Rec'd. Estates Over \$1000	Amount
LOS ANGELES - Continued	
Henry C. Jackson	\$ 2,133
Peter Michael Jaloma	2,466
Alice Katzman	1,665
Elizabeth A. Lawrence	3,840
Beatrice Lee	5,091
R. Sherman Lewis	10,033
Fred Lock-Hart	30,544
Manuela C. Lopez	1,035
Freda Mathias	3,920
Jessie Meyers	1,169
Gregory Mier	6,901
Alfred Miller	4,343
James L. Milmore	1,357
Fred Locklin Mitchell	4,296
James R. Newton	13,116
Lois Peterson	5,169
Roberta JA Pierce	1,512
Joe Ramos	3,072
Georgia F. Robinson	3,239
Frank Schoemaker	6,099
Arthur Schwemer	6,723
Margaret Scarry Smith	1,124
Hoyt Snider	2,647
Anna Stamm	1,109
Henel Stein	1,013
Louis Edward Stephan	7,731
Harry Streeter	14,715
Emil Stuma	1,058
George Supeck	6,790
Michael Takenaka	2,381
Dennis Tamplin	1,384
Eliza Thomas	16,762
Joe Thomas	9,790
Howell Madison Varn	1,214
Elizabeth M. Wagner	5,034
Edmund Walters	1,699
Albert Weathington	2,720
Gene Benton Welch	6,337
Roy D. White	7,217
Roy Wodemer	1,369
Ethel Williams	18,889
Horace Gustav Woellert	9,310
Paul Ming Wong	1,705
Carolyn Wycoff	4,705

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County & Name of Decedent in	No. Rec'd	Estates Over \$1000	Amount
MARIN (3)			
Liz Blaesing			\$ 2,073
Karl Heller			1,642
MENDOCINO (2)			
NEVADA (1)			
ORANGE (4)			
Dale Bradley			14,033
Robert William Nolan			1,988
Violette Brower Smith			2,316
Theodore Wilbur Stehone			9,299
PLACER (1)			
RIVERSIDE (1)			
Ethelda C. James			1,157
SACRAMENTO (4)			
Thomas Cooper			4,296
Jin Kwock Lee			2,116
Van Starr			1,386
SAN BERNARDINO (5)			
Burnice Opha Howe			1,156
Ruth Sampson			1,553
Carol G. Trench			3,523
SAN DIEGO (3)			
Blanche Frazier			3,249
Harry Polensky			36,991

County & Name of Decedent in	No. Rec'd.	Estates Over \$1000	Amount
SAN FRANCISCO (13)			
Dorothy Bigio			\$ 3,178
Paul L. Binns			3,156
Jew Chun			7,878
Jose C. Garcia			5,000
Agnes Carr Hanneman			11,248
Moses J. Heyduke			11,899
Shew Quon Joong			2,046
Meng Lam			3,912
Pauline M. Leahy			53,857
Gerald Meehan			9,124
Palle Floe Roesholm			10,723
Abigail Ross		(80,178)	12,014
SAN JOAQUIN (3)			
Jacob M. Bell			4,534
Tony Mantoff			1,612
SAN MATEO (5)			
Joseph Karolcik			1,212
Sue M. Love			1,000
SANTA CLARA (1)			
Ciriaco A. Rapanut			16,809
SANTA CRUZ (1)			
James Arthur Perani			10,031
TULARE (1)			
Meredith Bolen			5,044

OFFICE OF THE CONTROLLER
Kenneth Cory
State Capitol
Sacramento, CA

For Immediate Release

July 31, 1985

CONTACT: John Chen
(916) 445-7216

SACRAMENTO -- State Controller Kenneth Cory today reported that the proceeds from liquidation of 282 unclaimed estates with a total value of \$956,963 were received by his office during the months of April, May and June, and are being held in safekeeping for the rightful owners.

"During our custody of this property our principal goal will be to restore it to the legal owners," Cory said. "Inquiries about any of the estates should be directed to State Controller, Division of Unclaimed Property, P.O. Box 1019, Sacramento, CA 95805."

Estates permanently escheat to the State if still unclaimed five years after being turned over to the Controller. On June 30, the Controller was in custody of an accumulation of 9,009 estates valued at \$17,553,043 and still subject to claim.

_____ County accounted for _____ of the estates received during the three months. Estates received from _____ County and valued at more than \$1,000 are included in the following:

(Enclosed tabulation shows total number of estates received from each county and gives names of decedents in those valued at \$1,000 or more.)

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JUL 31 1985

PUBLIC ADMINISTRATOR
PUBLIC GUARDIAN

County & Name of Decedent in
 No. Rec'd Estates Over \$1000 Amount

County & Name of Decedent in
 No. Rec'd. Estates Over \$1000 Amount

LOS ANGELES (Continued)

SAN DIEGO (Continued)

Dora USevich \$ 4,000
 Alice Love Van Ark 1,227
 Charles Welch 1,048
 Jane Racima Welhelm 4,984
 Ethel Maxine White 1,440
 Jones William 12,716
 Joseph George Zecea 8,056
 Theresa L. Ziegler 1,000
 MARIN (2)
 Marguerite Bray Jones 3,547
 Addrena A. Martin 3,500
 MERCED (1)
 Lola M. Hasman 3,021
 MONTEREY (1)
 Brigitte Marie Ferguson 3,440
 NAPA (1)
 ORANGE (9)
 Berthaw Butler 3,520
 Gilbert V. Carter, Jr. 9,799
 John Gregory Jadel 5,769
 Neil Dickson Meloy 8,198
 James D. Milburn 10,385
 Otto F. Miller 1,000
 Peter A. Nicholson 16,994
 PLACER (2)
 RIVERSIDE (13)
 James William Hanratly 1,412
 Thomas Lockridge Herman 4,790
 Una Reed Kirk 2,000
 Paul Edward Phipps 4,448
 SACRAMENTO (5)
 Perry Wilson Baker 3,607
 Evelyn F. Hollingshead 10,500
 SAN BERNARDINO (6)
 Gilbert Robert Davis 1,925
 SAN DIEGO (18)
 Mervelyn M. Croft 9,049
 Joseph Marcus Davis 5,817
 Georgette Therese Hamilton 3,973
 Marian Ann Jessop 1,369
 Dave I. Jovanovich 1,011
 Peter Koncki 8,992

Edmund Tomas Malm \$ 1,439
 Bessie Miller 1,000
 Harold K. Rankin 1,000
 Charles Joseph Rea 1,256
 Woodrow Wilson Seney 14,752
 SAN FRANCISCO (27)
 Sophie A. Fulton 1,012
 Melvin E. Gray 1,000
 Sallie Annie Jackson 1,144
 Stephen J. Jansen 20,259
 Doris N. Lazar 11,361
 Chester Jay Long 4,719
 Russell McNutt 1,014
 Alfred Mitchell 4,413
 Malcolm J. Robertson 23,829
 Mike Ruck 22,742
 Carl W. Strom 20,987
 Mary Louisa Sweeney (28,163) 3,444
 Frederick Sanders Tilton 12,239
 SAN JOAQUIN (1)
 Virgil L. Carlton 4,462
 SAN LUIS OBISPO (1)
 SAN MATEO (2)
 Dorothy Wylie 2,908
 SANTA BARBARA (5)
 Petro Gomez 1,837
 Regina Montgomery 3,632
 Florence K. Otto 3,985
 Josephine Plunkett 1,000
 SANTA CLARA (8)
 Earl C. Brashear 11,849
 Margaret Goers Buttner 2,831
 TULARE (1)
 Dessie Myatt 1,777
 VENTURA (1)
 YOLO (3)
 Dolfis LeMay 1,920
 Louise T. McNary 1,662
 Elizabeth Turkington 2,378

County & Name of Decedent in
No. Rec'd Estates Over \$1000 Amount

ALAMEDA (16)

Mabel Rucker Belcher \$ 3,000
Leroy Scott Gibbs 1,562
LuLu Haskell Holmes 7,669
Evelyn Holtz 44,946
Charles Hopkinson 3,781
Martin Charles Hurd 1,472
Elizabeth Johnson 1,587
Rita E. Keerezey 1,975
Lenea Hilda Putnam 1,303

AMADOR (1)

Olga Safia Rosenqvist 67,822

CONTRA COSTA (2)

Harold Lushion Davis 18,938
Charlotte Rucky 1,000

EL DORADO (1)

FRESNO (9)

Micheal Kowalenko 12,047
Louise Martha Lovely 7,136

KERN (4)

Raymond Russell Theis 6,953

LAKE (1)

Patricia Ross 2,868

LOS ANGELES (141)

Florence Aikens 3,190
Carolyn Allen 11,733
Rose Elvina Baman 3,056
Cleave Brantley 4,137
Patricia Ann Breckenridge 4,839
Gladys V. Briggs 3,895
Parthenia Brixey 2,203
Peter Brosky 11,522
Francis H. Brown 5,000
Julian Brown 5,840
Herbert Buckholtz 2,106
Mary t. Caster 2,492
Kusterer Edwin Clark 2,500
John Paul Clarke 3,264
Thomas John Corley 5,264
Garnet Violet Cross 8,105
Stella Day 1,014
John Farrelly 1,441
Fedencio Etuarte 2,500

County & Name of Decedent in
No. Rec'd. Estates Over \$1000 Amount

LOS ANGELES - Continued

Castella May Fisher \$ 1,973
Mozelle Lillian Florez 20,232
Ronald Lee Gendron 1,873
Edward Geyer 1,295
Edward Green 15,489
Merle Edward Greenawalt 1,010
Dorothy Gullickson 1,837
Monroe Hawkins 3,909
Ellyn Carolyn Helmer 2,831
William Hinds 1,922
Anna Marie Hoffman 21,104
Gertrude Holubar 4,942
Grace Jackson 88,679
Florence Lillian Jensen 8,277
Madeline M. Kaiser 10,000
George Logan Kalb 6,412
Lowell Kerr 1,394
Mercedes Kilkenny 1,129
John Kratky 1,093
Cecil L. Lanier 1,439
Alice Lawrence 2,575
Francois Martirossov 16,106
Rene McCune 3,080
Stanley Robert McGee 1,603
Will Milber 1,705
Corey E. Mitchell 1,983
Lois Ojena 4,857
Arthur Patrick 93,795
Dessie Percy 12,979
Phillip Peyton 9,912
Alice Helen Philpott 2,019
Steve Pryjima 1,057
Joseph Reeves 16,478
Florence Dutch Riley 1,022
Arthur G. Rough 1,673
Clark Van Sickle 1,524
Robert Bernard Stewart 4,319
John J. Story 1,176
Viola Grace Tenuta 57,911
Earl C. Thomas 1,715
Louis Thornton 1,527
Janie L. Thyfault 1,096
Lily Trout 4,788

-----MORE

OFFICE OF THE CONTROLLER
Kenneth Cory
State Capitol
Sacramento, CA

For Immediate Release

October 28, 1985

CONTACT: John Chen
(916) 445-7216

SACRAMENTO -- State Controller Kenneth Cory today reported that the proceeds from liquidation of 212 unclaimed estates with a total value of \$792,263 were received by his office during the months of July, August and September, and are being held in safekeeping for the rightful owners.

"During our custody of this property our principal goal will be to restore it to the legal owners," Cory said. "Inquiries about any of the estates should be directed to State Controller, Division of Unclaimed Property, P.O. Box 1019, Sacramento, CA 95805."

Estates permanently escheat to the State if still unclaimed five years after being turned over to the Controller. On September 30, the Controller was in custody of an accumulation of 9,192 estates valued at \$18,041,155 and still subject to claim.

_____ County accounted for _____ of the estates received during the three months. Estates received from _____ County and valued at more than \$1,000 are included in the following:

(Enclosed tabulation shows total number of estates received from each county and gives names of decedents in those valued at \$1,000 or more.)

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OCT 25 1985
PUBLIC ADMINISTRATOR
PUBLIC GUARDIAN

-MORE

County & Name of Decedent in
No. Rec'd Estates Over \$1000 Amount

ALAMEDA (1)
AMADOR (1)
FRESNO (2)
HUMBOLDT (1)
 Florence MacKinnon \$ 11,306
IMPERIAL (1)
 Jose Tapiz 1,411
KERN (2)
LOS ANGELES (49)
 Jack Barocco 8,435
 Iva Jordan Blynn 2,000
 Charles Carow 2,075
 Ella R. Croxen 1,346
 Roy Otis Delano 38,807
 Fred Garcia DeSylva 18,014
 Roy Kenneth Farrow 16,069
 Edmund Fowler 10,318
 Earl Freeman 8,016
 Joe Halsey 2,556
 Frank Heuman 1,324
 Shirley C. Howard 1,031
 James Jefferson 2,059
 Emeline J. Lamberty 1,534
 Columbus MacLanning 3,786
 Margaret McCool 12,711
 Kate H. McGrew 1,661
 Aila Pelto 1,872
 Irene Helen Piotrowski 56,133
 Geannie Randall 2,521
 Frances Anna Redt 5,521
 James Francis Rehorst 1,189
 Paul K. Regoll 1,421
 John Robenson 5,511
 Benjamin Rubi 1,951
 David Silverblatt 6,903
 Charles Stallworth 14,374
 Elizabeth Stoll 95,604
 Celestino Suarez 2,177
 Ruby P. Valaskantjis 2,446
 Earl Frank Watson 5,561
 Richard Creed Wells 9,404
 Seaward Grover William 11,474
 Alice J. Wyatt 1,144
MADERA (1)
 Mary Dolores Lopez 4,391
MENDOCINO (1)
 Marie M. Tarpy 2,238
ORANGE (1)
 Thomas Edward Rock 3,774
RIVERSIDE (2)
 Betty H. Reynolds 5,720
SACRAMENTO (1)
 Marjorie Vivian Halbrook 2,785

County & Name of Decedent in
No. Rec'd. Estates Over \$1000 Amount

SAN BERNARDINO (4)
 Edith K. Fuerhardt \$ 1,895
 Maurice L. Lava 8,275
 Rita Leonore Kleckner 1,266
SAN DIEGO (7)
 Frank Killelea 64,251
 Lawrence C. McDonald 1,245
 Samuel J. Mellick 28,935
 Amanda Jennie Stevenson 5,402
 Peter Tymoc 4,748
 Ethel M. Vanard 1,086
 Aaron L. Zahn 1,041
SAN FRANCISCO (11)
 Gloria B. Frederick 71,291
 David W. Gray 1,744
 Wah Ying Hom 45,055
 Jan Koren 4,697
 Leon C. Leung 75,145
 Frieda Phillips 2,585
 Edward A. Wong 1,105
 John Zetterstrand (61274) 14,798
SAN JOAQUIN (120)
 Raymond R. Adelman 3,755
 Exquiel G. Amar 1,862
 Jose Beltran 1,111
 Augustus Dellenbourg 1,509
 Julian Edward Freutel 1,234
 Albert E. Haggerty 1,304
 Sam Holmes 1,390
 Mary Horrigan 1,477
 Steve Ivanic 91,184
 Clarence G. Johnson 6,765
 Lucy Kelley 1,402
 Albert Kissling 13,304
 Latell LaVolette 1,292
 Seita Fred Murakami 2,715
 Joseph A. Taylor 4,599
 Jesus Vasquez 1,435
SAN MATEO (1)
 John Zilka 1,321
SANTA BARBARA (1)
 Wendell Jeckle 10,670
SHASTA (1)
 George H. Farron 18,195
SONOMA (3)
 Edna Dawson Filer 4,146
 Grace H. Jordan 20,000
 Carl P. Sanford 16,262
TULARE (1)
 Pete F. Gravato 3,002

OFFICE OF THE CONTROLLER

Kenneth Cory
State Capitol
Sacramento, CA

For Release

January 25, 1986

CONTACT: John Chen
(916) 445-7216

SACRAMENTO -- State Controller Kenneth Cory today reported that the proceeds from liquidation of 261 unclaimed estates with a total value of \$1,131,659 were received by his office during the months of October, November and December, and are being held in safekeeping for the rightful owners.

"During our custody of this property our principal goal will be to restore it to the legal owners," Cory said. "Inquiries about any of the estates should be directed to State Controller, Division of Unclaimed Property, P.O. Box 1019, Sacramento, CA 95805."

Estates permanently escheat to the State if still unclaimed five years after being turned over to the Controller. On December 31, the Controller was in custody of an accumulation of 9,424 estates valued at \$18,813,305 and still subject to claim. _____ County accounted for _____ of the estates received during the three months. Estates received from _____ County and valued at more than \$1,000 are included in the following:

(Enclosed tabulation shows total number of estates received from each county and gives names of decedents in those valued at \$1,000 or more.)

MORE

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RECEIVED

JAN 27 1986

PUBLIC ADMINISTRATOR
PUBLIC GUARDIAN

County & Name of Decedent in
No. Rec'd Estates Over \$1000 Amount

County & Name of Decedent in
No. Rec'd. Estates Over \$1000 Amount

ORANGE (2)
Mary Anctil \$ 1,394
Agnes Vernie Lucak 1,000
RIVERSIDE (9)
Clara Elaine Lyke 1,460
Olive K. Nazzaro 5,000
Arthur B. Smith 1,206
Ralph Waggoner 1,360
Ethel P. Walls 8,569
SACRAMENTO (3)
Clemence C. Klingenberger 2,739
SAN BERNARDIO (4)
Frank Scott Furniss 19,396
Dorothy Helen Horback 24,661
Theodore G. Krumn 7,795
Nellie Alameda Thomson 1,132
SAN DIEGO (21)
Ernest Krause Brown 1,808
Kathleen Kay Campbell 40,799
Ramon Garcia Jr. 1,710
Etta R. Gunby 13,553
Samuel Adrian Hanson 5,079
Frederick Dickerson Matchett 1,259
Francis X. Mills 3,750
Henry Delamar Moore 1,061
Arthur Petrazzulo 4,001
John Edgar Pinochet 1,000
Katherine Florence Reynolds 1,549
John Frederick Sesser 1,035
Vera Florence Sloan 35,754
Marianne Weibel 5,927
SAN FRANCISCO (24)
Jack F. Albitz 7,578
Elsie Anderson 2,421
Albrecht E. Block 2,604
Bertrand Francis Coulter 3,868
Florence M. Eagen 3,349
William A. Estabrook 4,207
Juan Francisco Flores 1,689
Joseph Roy Freer 1,477
Alma Emma Malies 8,192
Chester J. Mott 2,512
Richard C. Penn 2,486
Emannel C. Poggi 4,223
Gladys Setterholm 1,035
John L. Sullivan 4,161
Lynwood J. Thomassie 2,405
Agnes M. Underwood 1,000
Lewis Venable 11,426
Edward H. Vogel 1,351
Annie B. Washington (69702) 3,718

SAN JOAQUIN (11)
Otto Edwin Jensen 2,150
Howard C. Morris 3,000
SAN LUIS OBISPO (2)
Peter Turney Young 1,846
SAN MATEO (5)
Maria G. Robaldo 7,816
Gertrude Stephens 20,108
Jean Woodruff 3,065
SANTA CLARA (1)
SOLANO (3)
George W. Tinsley 6,224
SONOMA (2)
Frank Rice 45,827
STANISLAUS (2)
Eugene Brogdon 1,165
Elfredia Martha McGill 16,067
TULARE (1)
Necanor Alvarez 5,295
YUBA (1)

RECEIVED

JAN 27 1938

PUBLIC ADMINISTRATOR
PUBLIC GUARDIAN

Public Administrators

The provisions of existing law governing public administrators are generally continued in the proposed law without substantive change, or with only minor changes that are noted in the Comments to the proposed law and to the repealers of existing law. There are a number of more significant changes, however, that are noteworthy.

Property subject to loss, injury, or waste. A public administrator must take charge of a decedent's property either (1) upon court order or (2) if there is no personal representative and the property is subject to loss, injury, or waste.¹ When this occurs, the public administrator may make a search for other property, a will, and burial instructions, including a search of the decedent's safe deposit box, but only if there are reasonable grounds to believe that the public administrator may be appointed personal representative.² This limitation is unduly restrictive, since there may be an immediate need for action regardless of the likelihood the public administrator will ultimately be the personal representative. The proposed law deletes the likelihood of appointment requirement. The proposed law also adds a requirement that if the search reveals additional property of the decedent that is subject to loss, injury, or waste, the person in possession must surrender the property to the public administrator.

Existing law sets a statutory fee for the services of a public administrator in searching for and taking charge of the decedent's property that is subject to loss, injury, or waste. The statutory fee is a \$25 minimum and a \$500 maximum.³ These limits are arbitrary, and bear no reasonable relation to the actual cost to the public administrator of providing the services. The proposed law eliminates

¹Prob. Code § 1140.

²Prob. Code § 1141.

³Prob. Code § 1144.5.

the statutory maximum and minimum fees, leaving the public administrator simply with a reasonable fee for services.

Public administrator's bond. The official bond of the public administrator stands in place of the ordinary bond of a personal representative. Since the public administrator's bond is for the benefit and protection of persons interested in the estates administered by the public administrator, it is proper that these beneficiaries, rather than the public, should bear the cost of the bond. The proposed law allows as a charge against every estate administered by the personal representative a pro rata share of the cost of the public administrator's bond.⁴ This amount is remitted to the county treasury to offset the public expenditure for the official bond.

Summary proceedings. Most estates handled by the public administrator are small estates that are uneconomical to administer.⁵ Existing law seeks to cure this problem by providing summary proceedings for use by the public administrator in small estates.⁶ The existing definition of a small estate, however is unrealistically low--\$3,000 for independent action by the public administrator, and \$20,000 for action with court authorization. The proposed law increases these amounts to allow independent action by the public administrator if the estate is less than \$10,000, or upon court authorization if the estate is less than \$60,000. These amounts

⁴The pro rata share is statutorily defined as \$25 for an estate of \$4,000 or less and ¼% of the amount of an estate greater than \$4,000. This is equivalent to one half the maximum amount allowed for the bond of a personal representative generally under Probate Code Section 541.5.

⁵The Public Administrator for the City and County of San Francisco, James R. Scannell, for example, informs the Law Revision Commission that 70% of the estates handled by his office are less than \$10,000 in value and 88% are less than \$50,00 in value. See Minutes of Meeting of California Law Revision Commission (March 13-14, 1986, Sacramento) at p. 28.

⁶Prob. Code § 1143.

correspond to the amounts that define a small estate under general Probate Code provisions enabling collection and transfer of small estates without administration.⁷ Increasing the amounts should place the operation of the public administrator's office on a more sound economic basis.

In conducting summary administration proceedings, the public administrator may liquidate personal property assets but not real property assets.⁸ This limitation unduly impairs the utility of the summary proceedings. The proposed law provides that so long as the total estate is small, the public administrator may sell real property that is part of the estate. The sale should be subject to court confirmation, however, just as sales under ordinary estate administration.

Because no notice to creditors is given under summary proceedings, the proposed law includes two protections for creditors not found under existing law. First, the proposed law requires payment of claims made within six months after administration commences, as opposed to the four month claim period applicable in ordinary administration proceedings. Second, the proposed law imposes liability on recipients of property distributed pursuant to summary proceedings for unpaid creditor claims. This is analogous to personal liability imposed on recipients of property that passes without probate administration.⁹

The minimum fee of the public administrator for summary administration is \$250.¹⁰ This fee is unrealistically low under modern conditions, and the proposed law increases the minimum fee to \$350.

⁷Prob. Code § 13000 et seq.

⁸Prob. Code §§ 1143-1144.

⁹See, e.g., Prob. Code § 13000 et seq.

¹⁰Prob. Code §§ 1143-1144; 43 Ops. Cal. Atty. Gen. 192 (4-22-64).

CHAPTER 7. PUBLIC ADMINISTRATORS

Article 1. General Provisions

§ 7600. Notice of death

7600. (a) If a public officer or employee, hospital, or other person knows or has reason to believe that a person has died in the county without known beneficiaries, the public officer or employee, hospital, or other person shall promptly report the facts to the public administrator of the county.

(b) A person who fails to comply with this section is liable for any damage that results from the failure. The liability may be enforced by the public administrator or any interested person.

Comment. Section 7600 supersedes former Probate Code Section 1145. See also Sections 7621 (report of public officer or employee).

CROSS-REFERENCES

Definitions

- Beneficiary § 24
- Interested person § 48
- Person § 56

§ 7601. Assistant or deputy public administrator

7601. An assistant or deputy public administrator or other subordinate officer may be appointed to act and has the powers and may perform the duties of the office of the public administrator to the extent provided in Article 7 (commencing with Section 1190) of Chapter 1 of Division 4 of Title 1 of the Government Code.

Comment. Section 7601 replaces former Probate Code Section 1142.5 with a reference to the general Government Code provisions governing assistants and deputies.

Article 2. Taking Possession or Control of Property
Subject to Loss, Injury, or Waste

§ 7620. Report of public officer or employee

7620. A public officer or employee shall inform the public administrator of property of a decedent known to the officer or employee to be liable to loss, injury, or waste that ought to be in the possession or control of the public administrator.

Comment. Section 7620 restates former Probate Code Section 1146 without substantive change.

CROSS-REFERENCES

Definitions

Property § 62

§ 7621. Authority of public administrator

7621. If no personal representative has been appointed, the public administrator of a county shall take prompt possession or control of property of a decedent in the county that is liable to loss, injury, or waste, or that the court orders into the possession or control of the public administrator after notice to the public administrator.

Comment. Section 7621 restates the first sentence of former Probate Code Section 1140(a) without substantive change. The public administrator may also be appointed special administrator for the property. Sections 8540-8541 (special administrators).

CROSS-REFERENCES

Definitions

Court § 29

Personal representative § 58

Property § 62

Note. General notice and hearing provisions have not yet been drafted.

§ 7622. Search for property, will, and instructions for disposition of remains

7622. (a) A public administrator who is authorized to take possession or control of property of a decedent pursuant to this article may make an immediate search for other property, a will, and instructions for disposition of the remains of the decedent.

(b) If a will is found, the public administrator or custodian of the will shall deliver the will as provided in Section 8200.

(c) If instructions for disposition of the decedent's remains are found, the public administrator shall promptly deliver the instructions to the person upon whom the right to control disposition of the decedent's remains devolves as provided in Section 7100 of the Health and Safety Code.

Comment. Section 7622 restates the first portion of subdivision (a) and subdivision (b) of former Probate Code Section 1141 but eliminates the requirement that there be reasonable grounds to believe that the public administrator may be appointed personal representative.

CROSS-REFERENCES

Definitions

Property § 62

Will § 88

§ 7623. Providing information and access

7623. (a) A public administrator who is authorized to take possession or control of property of a decedent pursuant to this article may make a written statement of this fact. A financial institution or other person shall, without the necessity of inquiring into the truth of the written statement and without court order or letters being issued:

(1) Provide the public administrator information concerning property held in the sole name of the decedent.

(2) Grant the public administrator access to any safe deposit box rented in the sole name of the decedent for the purpose of inspection and removal of any will or instructions for disposition of the decedent's remains. Any costs or expenses incurred for drilling or forcing a safe deposit box shall be borne by the estate of the decedent.

(3) Surrender to the public administrator property of the decedent that is liable to loss, injury, or waste.

(b) Receipt of the written statement provided by this section:

(1) Constitutes sufficient acquittance for providing information or granting access to the safe deposit box, for removal of the decedent's will and instructions for disposition of the decedent's remains, and for surrendering property of the decedent.

(2) Fully discharges the financial institution or other person from any liability for granting access or for any act or omission of the public administrator with respect to the safe deposit box.

Comment. Section 7623 restates the last portion of subdivision (a) and subdivision (c) of former Probate Code Section 1141 with the elimination of the requirement that there be reasonable grounds to believe the public administrator may be appointed personal representative and with the addition of subdivision (a)(3).

CROSS-REFERENCES

Definitions

Court § 29
Financial institution § 40
Letters § 52
Order § 53
Person § 56
Property § 62
Will § 88

§ 7624. Costs and fees for taking charge of property

7624. If the public administrator takes possession or control of property of a decedent pursuant to this article, but another person is subsequently appointed personal representative, the public administrator is entitled to costs incurred for the preservation of the estate, together with a reasonable fee for services, as a proper and legal charge as an expense of administration of the estate of the decedent.

Comment. Section 7624 restates former Probate Code Section 1144.5, eliminating the maximum and minimum fees.

CROSS-REFERENCES

Definitions

Person § 56
Personal representative § 58
Property § 62

Article 3. Appointment as Personal Representative

§ 7640. Authority of public administrator

7640. The public administrator of the county in which the estate of a decedent may be administered shall promptly:

(a) Petition for appointment as personal representative of the estate if the decedent has no known beneficiaries.

(b) Petition for appointment as personal representative of any other estate the public administrator deems proper.

(c) Accept appointment as personal representative of an estate when so ordered by the court whether or not upon petition of the public administrator, after notice to the public administrator as provided in Section 7641.

Comment. Subdivisions (a) and (b) of Section 7640 restate the second sentence of former Probate Code Section 1140 without substantive change. Subdivision (c) is new. See also Sections 7050-7051 (jurisdiction and venue of probate proceedings) and 8461 (priority for appointment).

CROSS-REFERENCES

Definitions

Beneficiary § 24

Court § 29

Personal representative § 58

§ 7641. Appointment of public administrator

7641. (a) Except as otherwise provided in this section, appointment of the public administrator as personal representative shall be made, and letters issued, in the same manner and pursuant to the same procedure as for appointment of and issuance of letters to personal representatives generally.

(b) Appointment of the public administrator may be made upon the court's own motion, after notice to the public administrator.

(c) The public administrator's oath and official bond are in lieu of the personal representative's oath and bond. Every estate administered under this chapter shall be charged with a pro rata share of the cost of the public administrator's official bond, in the amount of twenty-five dollars (\$25) for an estate of four thousand dollars (\$4,000) or less, and one-fourth of one percent of the amount of an estate greater than four thousand dollars (\$4,000). The amount charged shall be an expense of administration and that amount shall be deposited in the county treasury.

Comment. Section 7641 restates former Probate Code Section 1140(b), with the addition of subdivision (b) and the provision of subdivision (c) allowing the county to recoup a share of the cost of the public administrator's official bond. The amount allowed under subdivision (c) is half the amount allowed for the bond of a personal

representative generally under former Probate Code Section 541.5. Removal of the public administrator is subject to the same procedures as removal of administrators generally, including removal at the request of a person having a higher priority for appointment. Section 8503.

CROSS-REFERENCES

Definitions

Court § 29

Letters § 52

Personal representative § 58

§ 7642. General rules governing administration of estates apply

7642. Except as otherwise provided in this chapter:

(a) The public administrator shall administer the estate in the same manner as personal representatives generally, and the provisions of this division apply to administration by the public administrator.

(b) The public administrator shall receive the same compensation and allowances as are granted by this division to personal representatives generally.

Comment. Section 7642 restates former Probate Code Section 1142 without substantive change. The public administrator must file an inventory, institute suits for the recovery or protection of property, render accounts, and deliver up the property of the estate in the same manner as personal representatives generally.

CROSS-REFERENCES

Definitions

Personal representative § 58

§ 7643. Payment of unclaimed funds

7643. (a) After final settlement of an estate, if any money remains in the possession of the public administrator that should be paid over to the county treasurer pursuant to Chapter 4 (commencing with Section 11800) of Part 10, the court shall order payment to be made within 60 days.

(b) Upon failure of the public administrator to comply with an order made pursuant to subdivision (a), the district attorney of the county shall promptly institute proceedings against the public administrator and the sureties on the official bond for the amount ordered to be paid, plus costs.

Comment. Section 7643 restates former Probate Code Section 1154, referring to the general provisions for deposit of funds in the county treasury instead of to "unclaimed" property and allowing 60 instead of 10 days for payment to be made.

CROSS-REFERENCES

Actions at chambers § 7061
Definitions
Court § 30

Note. This draft will be circulated to the county treasurers for comment.

§ 7644. Additional compensation

7644. (a) As used in this section, "additional compensation" means the difference between the reasonable cost of the administration of an estate and the commissions awarded under Sections [901 and 902].

(b) The public administrator may be awarded additional compensation if any of the following conditions is satisfied:

(1) A person entitled to appointment as personal representative in preference to the public administrator has been given notice under Section 8110 of the public administrator's petition for appointment, and that person has not petitioned for appointment in preference to the public administrator.

(2) The public administrator has been appointed after the resignation or removal of a personal representative.

Comment. Section 7644 continues former Probate Code Section 1142.3 without substantive change.

CROSS-REFERENCES

Definitions
Person § 56
Personal representative § 58

§ 7645. Expiration of term of office

7645. (a) Except as provided in subdivision (b), the authority of a public administrator to administer an estate for which the public administrator has been appointed personal representative does not cease upon termination of his or her tenure in the office of public administrator, but his or her authority and duties as personal representative of the estate continue until discharge, as in the case of other personal representatives.

(b) If the compensation of the public administrator is paid by salary and not by fees, the authority of the public administrator ceases upon termination of his or her tenure in the office of public administrator, and his or her authority vests in the successor in the office of public administrator.

Comment. Section 7645 restates former Probate Code Section 1152 without substantive change.

CROSS-REFERENCES

Definitions

Personal representative § 58

Article 4. Deposit of Money of Estate

§ 7660. "Deposit in a financial institution" defined

7660. As used in this article, "deposit in a financial institution" means:

(a) Deposit in an [insured] bank in the state.

(b) Investment in an account in an insured savings and loan association.

(c) Investment in shares in an insured credit union.

Comment. Section 7660 is drawn from the first sentence of former Probate Code Section 1147 and expanded to include credit unions. See also Section 10 (singular includes plural).

CROSS-REFERENCES

Definitions

Account in insured savings and loan association § 22

Shares in an insured credit union § 72

Note. Any general language developed to refer to insured accounts in banks will be incorporated in this section.

§ 7661. Deposit by public administrator

7661. (a) The public administrator shall, upon receipt, deposit in a financial institution or with the county treasurer of the county in which the proceedings are pending all money of the estate.

(b) Upon deposit under this section the public administrator is discharged from further care or responsibility for the money deposited until the public administrator withdraws the money.

Comment. Section 7661 continues the first sentence of former Probate Code Section 1147 without substantive change.

CROSS-REFERENCES

Definitions

Deposit in a financial institution § 7660

§ 7662. Withdrawal of amounts deposited

7662. Money on deposit in a financial institution or with the county treasurer may be withdrawn upon the order of the public administrator when required for the purposes of administration.

Comment. Section 7662 continues the second sentence of former Section 1147 without substantive change.

CROSS-REFERENCES

Definitions

Deposit in a financial institution § 7660

§ 7663. Interest on money deposited

7663. (a) The public administrator shall credit each estate with the highest rate of interest or dividends that the estate would have received if the funds available for deposit had been individually and separately deposited.

(b) Any interest or dividends credited to the account of the public administrator in excess of the amount credited to the estates pursuant to subdivision (a) shall be deposited in the county general fund.

Comment. Section 7663 restates the second paragraph of former Probate Code Section 1147.

§ 7664. Deposit with county treasurer

7664. (a) The county treasurer shall receive and safely keep all money deposited with the county treasurer pursuant to this chapter and pay the money out upon the order of the public administrator when required for the purposes of administration. The county treasurer and sureties on the official bond of the county treasurer are responsible for the safekeeping and payment of all such money.

(b) The county treasurer shall deliver to the State Treasurer or the State Controller all money in the possession of the county treasurer belonging to the estate, if after a final settlement of the

estate, there are no beneficiaries or other persons entitled to the money, or the beneficiaries or other persons entitled to the money do not appear and claim it. Delivery shall be made under the provisions of Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

Comment. Section 7664 restates former Probate Code Section 1148 without substantive change.

GROSS-REFERENCES

Definitions

Beneficiary § 24
Person § 56
Personal property § 57

Note. Conforming changes are needed in various interrelated Code of Civil Procedure sections.

§ 7665. Deposit unclaimed in financial institution

7665. (a) If a deposit in a financial institution is made pursuant to this article, any money remaining unclaimed at the expiration of five years from the date of the deposit, together with the increase and proceeds of the deposit, shall be presumed abandoned in any of the following situations:

(1) The deposit belongs to the estate of a known decedent for which a personal representative has never been appointed.

(2) The deposit belongs to the estate of a known decedent for which a personal representative has been appointed but no order of distribution has been made due to the absence of interested persons or the failure of interested persons diligently to protect their interests by taking reasonable steps for the purpose of securing a distribution of the estate.

(b) The State Controller may, at any time after the expiration of the five-year period, file a petition with the court setting forth the fact that the money has remained on deposit in a financial institution under the circumstances described in subdivision (a) for the five-year period, and requesting an order declaring that the money is presumptively abandoned and directing the holder of the money to pay the money to the State Treasurer.

(c) Upon presentation of a certified copy of a court order made pursuant to subdivision (b), the financial institution shall forthwith transmit the money to the State Treasurer for deposit in the State Treasury. The deposit shall be made as provided in Section 1310 of the Code of Civil Procedure. All money deposited in the State Treasury under the provisions of this section shall be deemed to be deposited in the State Treasury under the provisions of Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure. The deposit shall be transmitted, received, accounted for, and disposed of as provided by Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

Comment. Section 7665 continues former Probate Code Section 1147.5 without substantive change.

CROSS-REFERENCES

Definitions

Court § 29
Deposit in a financial institution § 7660
Financial institution § 40
Interested person § 48
Order § 53
Personal representative § 58

Article 5. Summary Disposition of Small Estates

§ 7680. Summary disposition authorized

7680. (a) If a public administrator takes possession or control of, or is appointed personal representative of, an estate pursuant to this chapter, the public administrator may summarily dispose of the estate in the manner provided in this article in either of the following circumstances:

(1) The total value of the estate of the decedent does not exceed ten thousand dollars (\$10,000). The authority provided by this paragraph may be exercised without further court authorization.

(2) The total value of the estate of the decedent does not exceed the amount prescribed in Section 13100 (affidavit procedure for collection or transfer of personal property). The authority provided by this paragraph may be exercised only upon order of the court. The order may be made upon ex parte application. The fee to be allowed to the clerk for the filing of the application shall be set by the court.

(b) Summary disposition may be made whether or not there is a will of the decedent in existence, if the will does not name an executor or if the named executor refuses to act.

(c) Nothing in this article precludes the public administrator from filing any petition with the court pursuant to any other provision of this division if necessary for the proper administration of the estate.

Comment. Subdivisions (a) and (b) of Section 7680 supersede portions of former Probate Code Section 1143(a) and (b), increasing the summary disposition amounts from \$3,000 to \$10,000 and from \$20,000 to the amount prescribed in Section 13100. Subdivision (c) is new. Section 7680 is not limited to summary disposition of personal property but may include real property of small value as well.

CROSS-REFERENCES

Definitions

Clerk § 27

Court § 30

Order § 53

Personal representative § 58

Will § 88

Ex parte orders may be made at chambers § 166

§ 7681. Liquidation of assets

7681. A public administrator acting under authority of this article may:

(a) Withdraw any money of the decedent on deposit in a financial institution.

(b) Collect any indebtedness or claim owing to the decedent.

(c) Sell personal property of the decedent. Sales may be made with or without notice, as the public administrator elects. Title to the property sold shall pass without the need of confirmation by the court.

(d) Sell real property of the decedent, subject to Article 6 (commencing with Section 10300) of Chapter 17 of Part 5. Title to the property sold shall pass with the public administrator's deed.

Comment. Section 7681 restates portions of former Probate Code Sections 1143 and 1144, expanding the ability to withdraw funds to include other financial institutions besides banks and adding the ability to sell real property, subject to court confirmation.

CROSS-REFERENCES

Definitions

Court § 29
Financial institution § 40
Personal property § 57
Real property § 68

§ 7682. Payment of demands

7682. The public administrator acting under authority of this article shall pay out the money of the estate in the following order:

(a) Costs of administration, including commissions and attorney's fees.

(b) Expenses of the decedent's last illness and of disposition of the remains of the decedent.

(c) Proper claims presented to the public administrator within six months after court authorization of the public administrator to act under this article or after the public administrator takes possession or control of the estate. Claims shall be paid in the order prescribed in Section 11401 (order of payment).

Comment. Section 7682 restates the second sentence of former Probate Code Section 1143(a) and a portion of former Probate Code Section 1143(b), with the addition of specific references to attorney's fees and costs of administration. Because no notice to creditors is given pursuant to this article, the time for making claims is extended to six months, and recipients of the property remain liable for creditor claims. See Section 7684 (liability for decedent's unsecured debts).

§ 7683. Distribution of property

7683. (a) After payment of demands pursuant to Section 7682, the public administrator shall distribute any money or other property of the decedent remaining in the possession of the public administrator to the decedent's beneficiaries.

(b) In the absence of any such person the public administrator shall:

(1) If the proceeding is pursuant to paragraph (1) of subdivision (a) of Section 7680, deposit the balance with the county treasurer for use in the general fund.

(2) If the proceeding is pursuant to paragraph (2) of subdivision (a) of Section 7680, upon petition, distribute the money or property by court order to the State of California.

(c) Upon rendition of a court order distributing money or other property to the State of California under this section, the public administrator shall promptly transmit to the Treasurer or Controller all money or other property distributed to the State of California, subject to Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

Comment. Section 7343 restates a portion of former Section 1143(b) and the fifth and sixth sentences of former Section 1144 without substantive change.

CROSS-REFERENCES

Definitions

Beneficiary § 24
Court § 29
Order § 53
Person § 56
Property § 62

§ 7684. Liability for decedent's unsecured debts

7684. (a) A person to whom property is distributed pursuant to this article is personally liable for the unsecured debts of the decedent. Any such debt may be enforced against the person in the same manner as it could have been enforced against the decedent if the decedent had not died. In any action based upon the debt, the person may assert any defenses available to the decedent if the decedent had not died. The aggregate personal liability of a person under this section shall not exceed the fair market value of the property distributed, valued as of the time of the distribution, less the amount of any liens and encumbrances on that property at that time.

Comment. Section 7684 is new. It is drawn from Sections 13109 and 13112 (affidavit procedure for collection or transfer of personal property).

CROSS-REFERENCES

Definitions

Person § 56
Property § 62

§ 7685. Public administrator's statement of disposition

7685. The public administrator shall file with the clerk a statement showing the property of the decedent that came into possession of the public administrator and the disposition made of the property, together with receipts for all expenditures.

Comment. Section 7685 continues the substance of the fourth sentence of former Probate Code Section 1144, substituting receipts for vouchers, which have replaced them in practice.

CROSS-REFERENCES

Definitions

Clerk § 27

Property § 62

§ 7686. Commission of public administrator

7686. The commissions payable to the public administrator and the attorney, if any, for the public administrator for the filing of an application pursuant to this article and for performance of any duty or service connected therewith, are those set forth in Sections [901, 902, and 910], except that in any case administered pursuant to this article, the public administrator shall be entitled to a minimum commission of three hundred fifty dollars (\$350).

Comment. Section 7686 supersedes former Probate Code Section 1143(c) and the second sentence of former Probate Code Section 1144. See 43 Ops. Cal. Atty. Gen. 192 (4-22-64). Section 7686 increases the minimum commission under this article from \$250 to \$350.

4/23/86

COMMENTS TO REPEALED SECTIONS

Probate Code § 1140 (repealed)

Comment. The first sentence of subdivision (a) of former Section 1140 is restated without substantive change in Estate and Trust Code Section 7621 (authority of public administrator). The court may also appoint the public administrator as special administrator. Estate and Trust Code Section 8541 (procedure for appointment). The second sentence of subdivision (a) is restated in Estate and Trust Code Section 7640 (authority of public administrator).

Subdivision (b) is restated without substantive change in Estate and Trust Code Section 7641 (appointment of public administrator), with the addition of provisions for appointment of a public administrator on the court's own motion and for county recoupment from the estate of a share of the cost of the public administrator's bond.

Probate Code § 1140.5 (repealed)

Comment. Former Section 1140.5 is not continued. The county may not return alien indigents to their native land.

Probate Code § 1141 (repealed)

Comment. Former Section 1141 is restated without substantive change in Estate and Trust Code Sections 7622 (search for property, will, and instructions for disposition of remains) and 7623 (providing information and access), with the elimination of the requirement that there be reasonable grounds to believe the public administrator may be appointed personal representative.

Probate Code § 1142 (repealed)

Comment. Former Section 1142 is restated without substantive change in Estate and Trust Code Section 7642 (general rules governing administration of estates apply).

Probate Code § 1142.3 (repealed)

Comment. Former Section 1142.3 is continued without substantive change in Estate and Trust Code Section 7644 (additional compensation).

Probate Code § 1142.5 (repealed)

Comment. Former Section 1142.5 is superseded by Estate and Trust Code Section 7601 (assistant or deputy public administrator).

Probate Code § 1143 (repealed)

Comment. Former Section 1143 is superseded by Estate and Trust Code Sections 7680-7686 (summary disposition of small estates). The new provisions increase the summary disposition amounts from \$3,000 to \$10,000 and from \$20,000 to the amount prescribed in Estate and Trust Code Section 13100, and are not limited to personal property.

Probate Code § 1144 (repealed)

Comment. Former Section 1144 is superseded by Estate and Trust Code Sections 7680-7686 (summary disposition of small estates).

Probate Code § 1144.5 (repealed)

Comment. Former Section 1144.5 is restated in Estate and Trust Code Section 7624 (costs and fees for taking charge of property), with the elimination of the maximum and minimum fees.

Probate Code § 1145 (repealed)

Comment. Former Section 1145 is superseded by Estate and Trust Code Section 7600 (notice of death).

Probate Code § 1146 (repealed)

Comment. Former Section 1146 is restated without substantive change in Estate and Trust Code Section 7611 (report officer or public employee).

Probate Code § 1147 (repealed)

Comment. The first sentence of the first paragraph of former Section 1147 is restated without substantive change in Estate and Trust Code Sections 7660 ("deposit in a financial institution" defined) and 7661 (deposit by public administrator). The second sentence is continued without substantive change in Estate and Trust Code Section 7662 (withdrawal of amounts deposited). The second paragraph is restated in Estate and Trust Code Section 7663 (interest on money deposited).

Probate Code § 1147.5 (repealed)

Comment. Former Section 1147.5 is continued without substantive change in Estate and Trust Code Section 7665 (deposit unclaimed in financial institution).

Probate Code § 1148 (repealed)

Comment. Former Section 1148 is restated without substantive change in Estate and Trust Code Section 7664 (deposit with county treasurer).

Probate Code § 1149 (repealed)

Comment. Former Section 1149 is not continued. Payment of fees is controlled by general rules governing payment of the expenses of administration. See, e.g., Estate and Trust Code Sections 7642 (general rules governing administration of estates apply) and 7682 (payment of demands).

Probate Code § 1150 (repealed)

Comment. Former Section 1150 is not continued. General rules governing fiduciary obligations of the personal representative apply to the public administrator. Government Code Section 27443 provides an additional sanction.

Probate Code § 1152 (repealed)

Comment. Former Section 1152 is restated without substantive change in Estate and Trust Code Section 7645 (expiration of term of office).

Probate Code § 1154 (repealed)

Comment. Former Section 1154 is restated in Estate and Trust Code Section 7643 (payment of unclaimed funds), which allows 60 days instead of 10 days for making payment.

Probate Code § 1155 (repealed)

Comment. Former Section 1155 is not continued. Special sanctions are unnecessary in view of applicable general sanctions.

CONFORMING CHANGES

Government Code § 29616 (repealed)

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

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