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10/03/85

First Supplement to Memorandum 85-83

Subject: Working Outline of Estates and Trusts Code

The attached Working Outline of the Estates and Trusts Code may be useful to the Commission in determining the matters that will be included in the 1986 Legislative Program.

Possible additional items for the 1986 Legislative Program are noted on page 2 (Div. 6, Part 3, Ch. 6 - Small Estate Set-Aside) and on pages 5-6 (Div. 8 - Disposition of Estates Without Administration).

Respectfully submitted,

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Executive Secretary

ESTATES AND TRUSTS CODE  
(Working Outline)

DIVISION 1. PRELIMINARY PROVISIONS AND DEFINITIONS

- Part 1. Preliminary Provisions (§§ 1-12) (ENACTED, OPERATIVE 1/1/85)
- Part 2. Words and Phrases Defined (§§ 20-88) (ENACTED, OPERATIVE 1/1/85)

DIVISION 2. GENERAL PROVISIONS

- Part 1. Effect of Death of Married Person on Community and Quasi-Community Property (§§ 100-105) (ENACTED, OPERATIVE 1/1/85)
- Part 2. Surviving Spouse's Right in California Real Property of Nondomiciliary Decedent (§ 120) (ENACTED, OPERATIVE 1/1/85)
- Part 3. Contractual Arrangements Relating to Rights at Death (§§ 140-160) (ENACTED, OPERATIVE 1/1/85)
- Part 4. Establishing Fact of Death (§§ 200-212) (ENACTED, OPERATIVE 1/1/85)
- Part 5. Simultaneous Death (§§ 220-234) ENACTED, OPERATIVE 1/1/85)
- Part 6. Division by Representation (§§ 240-241) (ENACTED, OPERATIVE 1/1/85)
- Part 7. Effect of Homicide (§§ 250-256) (ENACTED, OPERATIVE 1/1/85)
- Part 8. Disclaimer of Testamentary and Other Interests (§§ 260-295) (ENACTED, OPERATIVE 1/1/85, CURRENTLY A DIVISION RATHER THAN A PART)
- Part 9. Trust Company as Fiduciary (§§ 300-301) (WORK IN PROGRESS)
- Part 10. Establishing Identity of Heirs (§§ 320-324) (WORK IN PROGRESS)
- Part 11. Fiduciaries' Wartime Substitution Law (§§ 350-377) (WORK IN PROGRESS)

DIVISION 3. [RESERVED FOR POWERS (POWERS OF APPOINTMENT AND POWERS OF ATTORNEY) OR FOR GENERAL PROVISIONS OF A PROCEDURAL NATURE (§§ 1000- )] [TO BE DRAFTED AFTER NEW CODE ENACTED]

DIVISION 4. GUARDIANSHIP, CONSERVATORSHIP, AND OTHER PROTECTIVE PROCEEDINGS

- Part 1. Definitions and General Provisions (§§ 1400-1491) (ENACTED, OPERATIVE 1/1/81)
- Part 2. Guardianship (§§ 1500-1601) (ENACTED, OPERATIVE 1/1/81)
- Part 3. Conservatorship (§§ 1800-1910) (ENACTED, OPERATIVE 1/1/81)
- Part 4. Provisions Common to Guardianship and Conservatorship (§§ 2100-2808) (ENACTED, OPERATIVE 1/1/81)
- Part 5. [Reserved]
- Part 6. Management or Disposition of Community Property Where Spouse Lacks Legal Capacity (§§ 3000-3154) (ENACTED, OPERATIVE 1/1/81)
- Part 7. Authorization of Medical Treatment for Adult Without Conservator (§§ 3200-3211) (ENACTED, OPERATIVE 1/1/81)
- Part 8. Other Protective Proceedings (§§ 3300-3803) (ENACTED, OPERATIVE 1/1/81)
- Part 9. California Uniform Transfers to Minors Act (§§ 3900-3925) (ENACTED, OPERATIVE 1/1/85)

DIVISION 5. MULTIPLE-PARTY ACCOUNTS (§§ 5100-5407) (ENACTED, OPERATIVE 7/1/84) [REQUIRES RESTUDY TO APPLY TO ALL FINANCIAL INSTITUTIONS]

DIVISION 6. WILLS AND INTESTATE SUCCESSION

- Part 1. Wills (§§ 6100-6390) (ENACTED, OPERATIVE 1/1/85)
- Part 2. Intestate Succession (§§ 6400-6414) (ENACTED, OPERATIVE 1/1/85)
- Part 3. Family Protection (§§ 6500-6614) (ENACTED, OPERATIVE 1/1/85)
  - Chapter 1. Temporary Possession of Family Dwelling and Exempt Property
  - Chapter 2. Setting Aside Exempt Property Other Than Family Dwelling
  - Chapter 3. Setting Aside Probate Homestead
  - Chapter 4. Family Allowance
  - Chapter 5. Spouse and Children Unprovided for in Will
  - Chapter 6. Small Estate Set-Aside (§§ 6600-6614) (WORK IN PROGRESS, SCHEDULED FOR INTRODUCTION IN 1986?)
- Part 4. Escheat of Decedent's Property (§§ 6800-6806) (ENACTED, OPERATIVE 1/1/85)

DIVISION 7. ADMINISTRATION OF ESTATES OF DECEDENTS (WORK IN PROGRESS,  
SCHEDULED FOR INTRODUCTION IN 1987)

Part 1. General Provisions

Chapter 1. Necessity of Administration (§§ 7000-7002)

Chapter 2. Jurisdiction and Courts (§§ 7050-7072)

Article 1. Jurisdiction and Venue

Article 2. Courts and Judges

Article 3. Transfer of Proceedings

Chapter 3. Rules of Procedure (§§ 7200- )

Chapter 4. Notices (§§ 7300- )

Chapter 5. Orders (§§ 7400- )

Chapter 6. Appeals (§§ 7500- )

Chapter 7. Public Administrators (§§ 7600-7685)

Article 1. General Provisions

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

Article 3. Appointment as Personal Representative

Article 4. Deposit of Moneys in Estate

Article 5. Summary Disposition of Small Estates

Chapter 8. Probate Referees (§§ 7800- )

Part 2. Opening Estate Administration

Chapter 1. Commencement of Proceedings (§§ 8000-8017)

Chapter 2. Notice of Hearing (§§ 8100-8147)

Article 1. Contents of Notice

Article 2. Service of Notice

Article 3. Publication of Notice

Chapter 3. Probate of Will (§§ 8200-8273)

Article 1. Production of Will

Article 2. Proof of Will

Article 3. Contest of Will

Article 4. Revocation of Probate

Chapter 4. Appointment and Removal of Personal  
Representative (§§ 8400-8576)

Article 1. General Provisions

Article 2. Executors

Article 3. Administrators With the Will Annexed

Article 4. Administrators

Article 5. Bond

Article 6. Removal from Office

Article 7. Changes in Administration

Article 8. Special Administrators

Article 9. Nonresident Personal Representative

Part 3. Inventory and Appraisal (§§ 8800- )

Part 4. Creditors' Claims

- Chapter 1. General Provisions (§§ 9000-9002)
- Chapter 2. Making Claims (§§ 9050-9055)
- Chapter 3. Time for Making Claims (§§ 9100-9103)
- Chapter 4. Claims in Civil Actions (§§ 9150-9154)
- Chapter 5. Claims by Surviving Spouse (§§ 9200-9202)
- Chapter 6. Claims by Public Entities (§§ 9250-9255)
- Chapter 7. Allowance and Rejection of Claims (§§ 9300-9302)
- Chapter 8. Claims Established by Judgment (§§ 9350-9354)

Part 5. Estate Management

- Chapter 1. Estate Management Generally (§§ 9600-9609)
- Chapter 2. Deposit of Money and Personal Property with Financial Institutions (§§ 9650-9653)
- Chapter 3. Investments and Purchase of Property (§§ 9700-9705)
- Chapter 4. Operation of Decedent's Business (§§ 9750-9751)
- Chapter 5. Actions and Proceedings by or Against Personal Representative (§§ 9800-9803)
- Chapter 6. Compromise of Claims and Actions; Extension, Renewal, or Modification of Obligations (§§ 9850-9851)
- Chapter 7. Conveyance or Transfer of Property Claimed to Belong to Decedent or Other Person (§§ 9900-9908)
- Chapter 8. Notes, Mortgages, Conveyances, and Exchanges (§§ 9950-9955)
- Chapter 9. Leases (§§ 10000-10003)
- Chapter 11. Sales (§§ 10050-10152)

Article 1. Definitions

Article 2. General Provisions

Article 3. Contract With Agent, Broker, or Auctioneer

Article 4. Sale of Personal Property

Article 5. Sale of Real Property

Article 6. Vacating Sale for Purchaser's Default

Article 7. Application of Sale Proceeds of Encumbered Property

Article 8. Damages and Recovery of Property

Part 6. Independent Administration of Estates

- Chapter 1. General Provisions (§§ 10400-10404)
- Chapter 2. Granting or Revoking Independent Administration Authority (§§ 10450-10454)
- Chapter 3. Administration Under Independent Administration Authority (§§ 10500-10502)
- Chapter 4. Advice of Proposed Action (§§ 10550-10551)
- Chapter 5. Forms (§§ 10600-10602)

Part 7. Compensation (§§ 10800- )

- Part 8. Accounting
  - Chapter 1. General Provisions (§§ 10900-10901)
  - Chapter 2. When Account Required (§§ 10950-10954)
  - Chapter 3. Settlement of Account (§§ 11000-11001)
  - Chapter 4. Compelling Accounting (§§ 11050-11052)
- Part 9. Payment of Debts, Expenses, Charges, and Taxes
  - Chapter 1. General Provisions (§§ 11400-11410)
  - Chapter 2. Allocation of Claim Between Estate and Surviving Spouse (§§ 11450-11456)
- Part 10. Distribution of Estate
  - Chapter 1. Order for Distribution (§§ 11600-11641)
    - Article 1. General Provisions
    - Article 2. Preliminary Distribution
    - Article 3. Final Distribution
  - Chapter 2. Determination of Persons Entitled to Distribution (§§ 11700-11705)
  - Chapter 3. Deceased Distributee (§§ 11750-11754)
  - Chapter 4. Deposit with County Treasurer (§§ 11800-11806)
  - Chapter 5. Distribution to State (§§ 11850-11854)
  - Chapter 6. Partition or Allotment of Distributed Property (§§ 11900-11907)
- Part 11. Closing Estate Administration
  - Chapter 1. Time for Closing Estate (§§ 12200-12206)
  - Chapter 2. Discharge of Personal Representative (§§ 12250-12253)
  - Chapter 3. Statutes of Limitation; Effect of Discharge (§§ 12300- )
- Part 12. Administration of Estates of Missing Persons Presumed Dead (§§ 12400-12409)
- Part 13. Ancillary Administration (§§ 12500- )

DIVISION 8. DISPOSITION OF ESTATES WITHOUT ADMINISTRATION (WORK IN PROGRESS, SCHEDULED FOR INTRODUCTION IN 1986?)  
(§§ 13000-13699)

- Part 1. Collection or Transfer of Small Estates Without Administration (§§ 13000-13660)
  - Chapter 1. Definitions (§§ 13000-13006)
  - Chapter 2. General Provisions (§§ 13050-13051)
  - Chapter 3. Affidavit Procedure for Collection or Transfer of Personal Property (§§ 13100-13115)
  - Chapter 4. Court Order Determining Succession to Real Property (§§ 13150-13157)
  - Chapter 5. Affidavit Procedure for Transfer of Real Property of Small Estate (§§ 13200-13208)

- Part 2. Passage of Property to Surviving Spouse Without Administration
- Chapter 1. General Provisions (§§ 13500-13506)
  - Chapter 2. Right of Surviving Spouse to Dispose of Real Property (§§ 13540-13542)
  - Chapter 3. Liability for Debts of Deceased Spouse (§§ 13550-13553)
  - Chapter 4. Collection by Affidavit of Compensation Owed to Deceased Spouse (§§ 13600-13605)
  - Chapter 5. Determination or Confirmation of Property Passing or Belonging to Surviving Spouse (§§ 13650-13660)

DIVISION 9. PRORATION OF TAXES (TENTATIVE RECOMMENDATION, SCHEDULED FOR INTRODUCTION IN 1986)

- Part 1. Proration of Estate Taxes (§§ 14500-14546)
- Chapter 1. General Provisions
  - Chapter 2. Proration
  - Chapter 3. Judicial Proceedings
- Part 2. Proration of Taxes on Generation-Skipping Transfers (§§ 14600-14645)
- Chapter 1. General Provisions
  - Chapter 2. Proration
  - Chapter 3. Judicial Proceedings

DIVISION 10. TRUSTS (WORK IN PROGRESS, SCHEDULED FOR INTRODUCTION IN 1986)

- PART 1. GENERAL PROVISIONS (§§ 15000-15006)
- PART 2. CREATION, VALIDITY, MODIFICATION, AND TERMINATION OF TRUSTS (§§ 15200-15413)
- CHAPTER 1. CREATION AND VALIDITY OF TRUSTS
  - CHAPTER 2. RESTRICTIONS ON VOLUNTARY AND INVOLUNTARY TRANSFERS
  - CHAPTER 3. MODIFICATION AND TERMINATION OF TRUSTS
- PART 3. TRUSTEES AND BENEFICIARIES (§§ 15600-15803)
- CHAPTER 1. TRUSTEES
    - Article 1. General Provisions
    - Article 2. Cotrustees
    - Article 3. Resignation and Removal of Trustees
    - Article 4. Appointment of Trustees
    - Article 5. Compensation and Indemnification of Trustees
  - CHAPTER 2. BENEFICIARIES
- PART 4. TRUST ADMINISTRATION (§§ 16000-16462)
- CHAPTER 1. DUTIES OF TRUSTEES
    - Article 1. Trustee's Duties in General
    - Article 2. Trustee's Standard of Care
    - Article 3. Trustee's Duty to Report Information and Account to Beneficiaries
    - Article 5. Duties of Trustees of Private Foundations, Charitable Trusts, and Split-Interest Trusts

	CHAPTER 2. POWERS OF TRUSTEES
	<u>Article 1. General Provisions</u>
	<u>Article 2. Specific Powers of Trustees</u>
	CHAPTER 3. REVISED UNIFORM PRINCIPAL AND INCOME ACT
	CHAPTER 4. LIABILITY OF TRUSTEES TO BENEFICIARIES
	<u>Article 1. Liability for Breach of Trust</u>
	<u>Article 2. Remedies for Breach of Trust</u>
	<u>Article 3. Measure of Liability</u>
	<u>Article 4. Limitations and Exculpation</u>
PART 5.	JUDICIAL PROCEEDINGS CONCERNING TRUSTS (§§ 17000-17507)
	CHAPTER 1. JURISDICTION AND VENUE
	CHAPTER 2. NOTICE
	CHAPTER 3. PROCEEDINGS CONCERNING TRUSTS
	CHAPTER 4. TESTAMENTARY TRUSTS SUBJECT TO CONTINUING COURT JURISDICTION
	<u>Article 1. Administration of Testamentary Trusts Subject to Continuing Court Jurisdiction</u>
	<u>Article 2. Removal of Trusts From Continuing Court Jurisdiction</u>
	CHAPTER 5. TRANSFER OF TRUST TO ANOTHER JURISDICTION
	CHAPTER 6. TRANSFER OF TRUST FROM ANOTHER JURISDICTION
PART 6.	RIGHTS OF THIRD PERSONS (§§ 18000-18201)
	CHAPTER 1. LIABILITY OF TRUSTEE TO THIRD PERSONS
	CHAPTER 2. PROTECTION OF THIRD PERSONS
	CHAPTER 3. RIGHTS OF CREDITORS OF SETTLOR