

Memorandum 92-57

Subject: Study F-1001 - Family Code (General Definitions)

Nineteen terms are defined in the front part of the Family Code. Fam. Code §§ 55-155. Definitions in other codes that might possibly be useful in the Family Code are "person," "property," and "real property." "Financial institution" is not used in the Family Code.

"Person" is defined in other codes to include non-natural entities. In the Family Code, "person" usually means a natural person. But in some Family Code sections, "person" may include a non-natural entity. See *id.* §§ 4, 13, 531, 721, 755, 783, 803, 2021, 3665, 3761, 3763-68, 3770, 3950, 4620, 4802, 5210, 5214, 7641, 7650, 7841, 7851, 8702, 8818, 9001, 9200, 9323. Thus a definition of "person" as including a non-natural entity appears useful in the Family Code. The staff recommends adding the following definition of "person" to the Family Code:

110. "Person" includes a natural person, firm, association, organization, partnership, business trust, corporation, or public entity.

Comment. Section 110 is new and is drawn from Evidence Code Section 175 and Government Code Section 17.

"Property" is defined in the Civil Code, Evidence Code, and Probate Code to include both real and personal property. This seems so obvious as to make this definition unnecessary for the Family Code.

"Real property" is defined in the Probate Code as including a leasehold interest in real property. This appears consistent with common law. See Black's Law Dictionary 1036 (4th ed. 1951). But the First Restatement of Property defines real property to include *freehold* interests. 4 B. Witkin, *Summary of California Law Real Property* § 3, at 217 (9th ed. 1987). The Civil Code and Evidence Code define "real property" as including "lands, tenements, and hereditaments." Civ. Code § 14; Evid. Code § 205. Given this confusion, the staff sees no benefit in defining "real property" in the Family Code.

Respectfully submitted,

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