

First Supplement to Memorandum 2013-27

**Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act:
Conforming Revisions**

At pages 13-15 of Memorandum 2013-27, the staff presented a possible means of coordinating UAGPPJA with the property transfer procedure specified in Probate Code Sections 3800-3803. The revisions suggested by the staff include a possible amendment of Probate Code Section 3803.

Having given the matter further thought, **the staff believes that Section 3803 should be revised more extensively than we previously recommended.** One alternative would be to revise the provision as shown below:

Prob. Code § 3803 (amended). Order on petition for removal of property

3803. (a) Upon ~~the~~ a petition under this chapter, if the court determines that removal of the property will not conflict with any restriction or limitation on the property or impair the right of the nonresident or proposed nonresident to the property or the rights of creditors or claimants in this state, the court shall make an order granting to the nonresident fiduciary or proposed nonresident fiduciary leave to remove the property of the nonresident or proposed nonresident to the place of residence or proposed place of residence unless good cause to the contrary is shown.

(b) The order is authority to the fiduciary to sue for and receive the property in his or her own name for the use and benefit of the nonresident or proposed nonresident.

(c) The order is a discharge of the personal representative or other person in whose possession the property may be at the time the order is made and of the person obligated to pay a debt, perform an obligation, or issue a security to the nonresident or proposed nonresident or the estate of the nonresident or proposed nonresident, upon filing with the clerk of the court the receipt of the nonresident fiduciary or proposed nonresident fiduciary for the property and transmitting a duplicate receipt, or a certified copy of the receipt, to the court, if any, from which the nonresident

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The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

fiduciary received his or her appointment, or, if the proceeding is to be transferred under Article 3 (commencing with Section 2001) of Chapter 8 of Part 3, to the court to which the proceeding is being transferred.

Comment. Section 3803 is amended to reflect the enactment of the California Conservatorship Jurisdiction Act (Section 1980 *et seq.*).

Another alternative would be to add a new subdivision to Section 3803, along the following lines:

Prob. Code § 3803 (amended). Order on petition for removal of property

3803. (a) Upon ~~the~~ a petition under this chapter, if the court determines that removal of the property will not conflict with any restriction or limitation on the property or impair the right of the nonresident to the property or the rights of creditors or claimants in this state, the court shall make an order granting to the nonresident fiduciary leave to remove the property of the nonresident to the place of residence unless good cause to the contrary is shown.

(b) The order is authority to the fiduciary to sue for and receive the property in his or her own name for the use and benefit of the nonresident.

(c) The order is a discharge of the personal representative or other person in whose possession the property may be at the time the order is made and of the person obligated to pay a debt, perform an obligation, or issue a security to the nonresident or the estate of the nonresident, upon filing with the clerk of the court the receipt of the nonresident fiduciary for the property and transmitting a duplicate receipt, or a certified copy of the receipt, to the court, if any, from which the nonresident fiduciary received his or her appointment.

(d) If a petition under this chapter is filed in a proceeding under Article 3 (commencing with Section 2001) of Chapter 8 of Part 3, the following terms shall have the following meanings for the purposes of this section:

(1) "Nonresident" means the conservatee.

(2) "Nonresident fiduciary" means the conservator.

(3) "Place of residence" means the conservatee's proposed place of residence, if the transfer is effected.

(4) "Court, if any, from which the nonresident fiduciary received his or her appointment" means the court to which jurisdiction would be transferred.

Comment. Section 3803 is amended to reflect the enactment of the California Conservatorship Jurisdiction Act (Section 1980 *et seq.*).

As between this alternative and the other one presented above, the staff does not have a strong preference.

If the Commission decides to coordinate UAGPPJA with the property transfer procedure specified in Probate Code Sections 3800-3803, which version of Section 3803 would it like to use?

Respectfully submitted,

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