

Memorandum 2018-36

**Disposition of Estate Without Administration: Dollar Amounts
(Public Comment)**

This study addresses Probate Code provisions that provide procedures for the disposition of a small estate or portion of an estate without probate administration. The provisions typically restrict the use of these procedures to estates or assets under a certain dollar amount.

The Commission circulated a tentative recommendation that proposed updating the dollar amounts to reflect cost-of-living increases since those values were last modified. In addition, the tentative recommendation proposes an automatic adjustment procedure, so that the values will be subjected to an administrative adjustment every three years to reflect cost-of-living increases.

The Commission received one written comment, from Retired Judge Arnold H. Gold, which is attached as an Exhibit to this memorandum. In addition, the staff spoke informally with the Judicial Council staff regarding this proposal and the role of the Judicial Council in calculating and publishing the adjusted dollar amounts. This memorandum discusses these comments. It also discusses a few minor issues related to the draft recommendation.

Unless otherwise noted, all statutory references in this memorandum are to the Probate Code.

COMMENT FROM RET. JUDGE ARNOLD H. GOLD

Judge Gold¹ writes to express concern that one aspect of the proposed legislation is ambiguous. His concern is described below, after a brief summary of the relevant portion of the proposed legislation.

The proposed legislation would require the Judicial Council to calculate and publish adjusted dollar amounts. The adjustment calculation and publication would occur every three years on April 1st. The adjusted dollar amounts are calculated using the change in the consumer price index data “from the

1. Judge Gold’s comment is attached to this memorandum. See Exhibit p. 1.

December three years prior to the adjustment to the December immediately preceding the adjustment.”²

Since the adjustment occurs in April, Judge Gold rightly notes that “[t]hree years prior to the adjustment is not a December, it is an April.”³ Judge Gold recommends that this ambiguity be eliminated by using the phrase “the December that is 40 months prior to the adjustment.”⁴

Judge Gold’s proposed language is consistent with the intent of the proposal. **To avoid any possible confusion, the staff recommends that the recommendation be changed to use the language proposed by Judge Gold in Section 890.** Using Judge Gold’s language, subdivisions (a) and (b) of proposed Section 890 will read (with changes from the original proposal shown in ~~strikeout~~ and underscore):

(a) On April 1, 2022, and at each three-year interval ending on April 1 thereafter, the dollar amounts specified in Chapter 6 (commencing with Section 6600) of Part 3 of Division 6 and in Division 8 (commencing with 13000) in effect immediately before that date shall be adjusted as provided in subdivision (b).

(b) The Judicial Council shall determine the amount of the adjustment based on the change in the United States city average of the “Consumer Price Index for All Urban Consumers,” as published by the United States Bureau of Labor Statistics, from the December ~~three years that is 40 months~~ that is 40 months prior to the adjustment to the December immediately preceding the adjustment, with each adjusted amount rounded to the nearest twenty-five dollars (\$25).

Does the Commission approve of this change?

JUDICIAL COUNCIL’S ROLE IN COMPUTING AND PUBLISHING ADJUSTED DOLLAR VALUES

As indicated above, the proposed law would task the Judicial Council with calculating and publishing the adjusted dollar amounts every three years for the affected provisions of the Probate Code. The staff spoke informally with the Judicial Council staff about the proposal. The Judicial Council staff did not raise concerns about their role in adjusting the dollar amounts.

2. See proposed Section 890(b).
3. Exhibit p. 1.
4. *Id.*

ADDITIONAL ISSUES

Possible Erroneous Cross-Reference

The tentative recommendation included a Note seeking comment on a possibly erroneous cross-reference in Section 13602. The Commission received no formal comments on this issue. During an informal staff conversation, the Judicial Council staff raised new issues that suggest a broader cross-reference change (which would require amending a provision that is not currently affected by the recommendation) may be the appropriate reform.

In short, the cross-reference issue seems to be more complicated than it initially appeared. Fortunately, this issue can be addressed more broadly later as part of the Commission's ongoing study of Probate Code issues. Rather than expanding this recommendation to properly coordinate the cross-references, the staff proposes that the recommendation maintain a tight focus on the dollar amount adjustments and make no change to the cross-reference in Section 13602.

Does the Commission approve of this approach?

Minor Changes to Draft Recommendation

In preparing the draft recommendation, the staff identified several minor clarifying changes and stylistic revisions that have been incorporated into the attached draft.

Need for Update of Dollar Amounts

The staff also wants to note that the dollar values contained in the draft recommendation reflect cost-of-living changes up through December 2017. In order to sync up the adjustment schedules for these dollar values with the adjustment schedule for the dollar values for the exemptions from the enforcement of money judgments in the Code of Civil Procedure, these dollar values will need to be updated to reflect changes through December 2018. The staff is planning to make this update in mid-January 2019 (after the release of the December 2018 data).

APPROVAL OF RECOMMENDATION

With the caveat that the dollar values contained in the draft recommendation will need to be updated as described in this memorandum, does the Commission approve the attached draft (as is or with modifications)

**as a final recommendation for submission to the Legislature and publication
in the Commission's official reports?**

Respectfully submitted,

Kristin Burford
Staff Counsel

HON. ARNOLD H. GOLD

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June 8, 2018

California Law Revision Commission
c/o King Hall Law School
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Re: Your #L-4130.1 -
Tentative Recommendation re
Disposition of Estate Without
Administration - Dollar Amounts

Ladies and Gentlemen:

I have only one comment concerning the above-described Tentative Recommendation:

It seems to me that the phrase "the December three years prior to the adjustment" at line 14 on proposed new Probate Code Section 890 is ambiguous: Three years prior to the adjustment is not a December, it is an April.

The use of the phrase "the December that is 40 months prior to the adjustment" in place of the ambiguous phrase would eliminate the ambiguity.

Sincerely yours,



ARNOLD H. GOLD

#L-4130.1

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

STAFF DRAFT

RECOMMENDATION

Disposition of Estate Without Administration:
Dollar Amounts

August 2018

California Law Revision Commission
c/o King Hall Law School
Davis, CA 95616
530-752-3620
<commission@clrc.ca.gov>

SUMMARY OF RECOMMENDATION

The Probate Code provides several options for estates or portions of estates to be conveyed without requiring a full probate proceeding. Many of these provisions that allow disposition of an estate without administration include a dollar limit, authorizing use of the procedure only where the value of the relevant assets is less than the specified amount.

The Commission concluded that, unless the dollar amounts were adjusted to account for inflation, the availability of these procedures would decrease over time due to inflation. This, in turn, could effectively require more estates to be administered in probate.

The Commission believes that these disposition without administration procedures are a useful tool and their availability should be preserved. Therefore, the Commission recommends adjusting the dollar amounts to reflect the cost-of-living changes due to inflation since these amounts were last adjusted. The Commission also recommends that these amounts be adjusted and published administratively triennially (every three years) going forward.

This recommendation was prepared pursuant to Chapter 150 of the Statutes of 2016.

DISPOSITION OF ESTATE WITHOUT ADMINISTRATION: DOLLAR AMOUNTS

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BACKGROUND

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The Probate Code contains a number of provisions that permit an estate or a portion of an estate to be collected without administration (or with substantially simplified administration). Some of these procedures are limited to estates or assets below a specified dollar amount.

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These procedures are helpful to heirs and beneficiaries of small estates, as the procedures make it possible to avoid the delays and costs associated with probate administration.¹ In addition, these procedures lessen the burden on courts and allow judicial resources to be directed to matters requiring greater judicial oversight.²

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The Commission studied the dollar limits for these procedures to determine whether those dollar limits need to be adjusted.

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SCOPE OF THE ISSUE

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The Commission's study of this topic focused on procedures that permit collection of an estate or assets of a decedent without administration or with substantially simplified administration that are subject to a maximum dollar limit. In particular, the Commission focused on the following provisions of the Probate Code:

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- *Small Estate Set-Aside* (Sections 6600-6615). These provisions allow the decedent's spouse and/or minor children to petition the court to set the decedent's estate aside for them. The procedure is only applicable when the value of the estate (subject to specified exclusions³) does not exceed \$20,000.

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- *Affidavit Procedure for Collection or Transfer of Personal Property* (Sections 13100-13116). These provisions permit a decedent's successor⁴ to collect certain property without administration, when the gross value of the decedent's real and personal property in this state does not exceed \$150,000 (subject to Section 13050, described below).

- *Transfer of Real Property Without Administration* (Sections 13150-13158). Under these provisions, a court may order the transfer of real property to a

1. See Senate Committee on Judiciary Analysis of AB 1305 (June 6, 2011), p. 4.

2. *Id.*

3. See Prob. Code §§ 6602, 6609.

4. See *id.* § 13006.

1 decedent's successor⁵ if the gross value of the decedent's real and personal
2 property in this state does not exceed \$150,000) (subject to Section 13050,
3 described below).

- 4 • *Affidavit Procedure for Real Property of Small Value* (Sections 13200-
5 13210). These provisions allow a decedent's successor⁶ to record a court-
6 certified affidavit, to transfer title to the decedent's real property to the
7 successor. The provisions only apply if the gross value of all real property in
8 the decedent's estate located in California does not exceed \$50,000 (subject
9 to Section 13050, described below).
- 10 • *Collection by Affidavit of Compensation Owed Deceased Spouse* (Sections
11 13600-13606). These provisions allow a decedent's surviving spouse to
12 collect salary or other compensation owed by an employer for personal
13 services of the deceased spouse, of \$15,000 or less.

14 Probate Code Section 13050 provides a rule for calculating the value of the
15 decedent's property, which is used to determine the availability of certain
16 procedures described above. In that calculation, Section 13050(c)(2) excludes up
17 to \$15,000 of unpaid compensation owed to the decedent.

18 This recommendation addresses only the dollar amounts noted above.

19 This recommendation does not address and the Commission takes no position on
20 the suitability of dollar amounts in other provisions of the Probate Code.

21 PROBLEM

22 These procedures for simplified administration and disposition of administration
23 are subject to dollar limits, as indicated above. These dollar limits serve an
24 important function by balancing the need for judicial oversight with the need for
25 judicial economy and the avoidance of unnecessary administration.⁷ The dollar
26 limits represent a considered choice in which the Legislature struck a balance
27 between these important, competing policy concerns.

28 Over time, changes in the cost of living could shift the policy balance struck by
29 the Legislature. As the cost of living increases, the purchasing power of these
30 dollar limits will be lower. Fewer estates and assets will qualify to use these
31 procedures and would, instead, require administration in a full probate proceeding.
32 As such, "[t]he Legislature has regularly reemphasized the importance of
33 maintaining this balance by adjusting the applicable limits regularly over time."⁸

5. *Id.*

6. *Id.*

7. Senate Committee on Judiciary Analysis of AB 1305 (June 6, 2011), pp. 4-5.

8. *Id.* at 5.

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RECOMMENDATION

The Commission recommends that the dollar amounts contained in Chapter 6 (commencing with Section 6600) of Part 3 of Division 6 and Division 8 (commencing with 13000) of the Probate Code be adjusted to reflect the cost-of-living increases since these amounts were previously changed.⁹

In addition, the Commission recommends that an automatic cost-of-living adjustment mechanism be added to the Probate Code to provide for periodic administrative adjustment of the dollar amounts and publication of those adjusted amounts going forward.¹⁰ This automatic adjustment mechanism (proposed Probate Code Section 890) is modeled after Code of Civil Procedure Section 703.150, which provides for automatic adjustment of the dollar amounts for exemptions from the enforcement of money judgments.

As with Code of Civil Procedure Section 703.150, proposed Probate Code Section 890 would assign the Judicial Council the task of adjusting the dollar amounts and publishing those adjusted amounts.

Proposed Probate Code Section 890 uses the same triennial cycle for adjusting the relevant dollar amounts as Code of Civil Procedure Section 703.150.¹¹ Using the same triennial cycle (once every three years, as specified) would appear to minimize the administrative burden of performing these adjustments for the different statutory provisions.

RELATED TECHNICAL CHANGES

The Commission also recommends making the following related technical changes:

- Amend Sections 13101, 13152, 13200, and 13601, which prescribe the contents of documents to be used to collect assets under different procedures at issue in this recommendation. These sections are amended to ensure that the adjusted dollar amounts are used in the forms, as appropriate, and the list of adjusted dollar amounts, prepared by Judicial Council, is attached to the relevant form.

9. The Commission considered which cost-of-living index to use for calculating the adjustment amounts: either the United States Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (USBLS Index) or the California Consumer Price Index (CCPI). The Commission selected the USBLS Index because this index has been used recently for updating dollar values in the Probate Code. See CLRC Minutes (Dec. 2017), p. 15; CLRC Staff Memorandum 2017-58, pp. 5-7.

10. See proposed Prob. Code § 890.

11. The dollar amounts contained in the proposed legislation will need to be updated to reflect the cost-of-living adjustments through the end of 2018 in order to properly coordinate the adjustment schedule of proposed Probate Code Section 890 with the adjustment schedule used in Code of Civil Procedure Section 703.150.

- 1 • Repeal Section 13600(e), which provides a cost-of-living adjustment of the
2 dollar limit for collection of unpaid compensation by a surviving spouse.
3 That provision does not assign responsibility for making the adjustment. Nor
4 does it provide a mechanism for publication of the adjusted amount. The
5 relevant dollar amounts will now be subject to adjustment and publication
6 under proposed Probate Code Section 890.
- 7 • Amend Sections 13601 and 13602 to conform to Section 13600(d), which
8 specifies that a surviving spouse of a deceased firefighter or public safety
9 officer is exempt from the dollar limit for collection of unpaid
10 compensation.¹²

11 The Commission also proposes miscellaneous technical changes to conform to
12 standard drafting practices, as indicated in the proposed legislation.

12. See 2002 Cal. Stat. ch. 733, § 2.

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PROPOSED LEGISLATION

1 **Prob. Code § 890 (added). Periodic adjustment of dollar amounts**

2 SECTION 1. Part 21 (commencing with Section 890) is added to Division 2 of
3 the Probate Code, to read:

4 PART 21. PERIODIC ADJUSTMENT OF DOLLAR
5 AMOUNTS

6 **§ 890. Periodic adjustment of dollar amounts**

7 890. (a) On April 1, 2022, and at each three-year interval ending on April 1
8 thereafter, the dollar amounts specified in Chapter 6 (commencing with Section
9 6600) of Part 3 of Division 6 and in Division 8 (commencing with 13000) in effect
10 immediately before that date shall be adjusted as provided in subdivision (b).

11 (b) The Judicial Council shall determine the amount of the adjustment based on
12 the change in the United States city average of the “Consumer Price Index for All
13 Urban Consumers,” as published by the United States Bureau of Labor Statistics,
14 from the December three years prior to the adjustment to the December
15 immediately preceding the adjustment, with each adjusted amount rounded to the
16 nearest twenty-five dollars (\$25).

17 (c) Beginning April 1, 2022, the Judicial Council shall, after adjusting the
18 amounts as directed in subdivision (b), publish a list of the current dollar amounts
19 for the provisions identified in subdivision (a), together with the date of the next
20 scheduled adjustment.

21 (d) Adjustments made under subdivision (a) do not apply when the decedent’s
22 death preceded the date of adjustment.

23 **Comment.** Section 890 is comparable to Code of Civil Procedure Section 703.150. It provides
24 for periodic cost-of-living adjustments for dollar amounts contained in certain provisions of the
25 Probate Code.

26 **Prob. Code § 6602 (amended). Petition to set aside estate**

27 SEC. 2. Section 6602 of the Probate Code is amended to read:

28 6602. A petition may be filed under this chapter requesting an order setting aside
29 the decedent’s estate to the decedent’s surviving spouse and minor children, or one
30 or more of them, as provided in this chapter, if the net value of the decedent’s
31 estate, over and above all liens and encumbrances at the date of death and over and
32 above the value of any probate homestead interest set apart out of the decedent’s
33 estate under Section 6520, does not exceed ~~twenty thousand dollars (\$20,000)~~
34 eighty-four thousand two hundred seventy-five dollars (\$84,275), as adjusted
35 periodically in accordance with Section 890.

1 **Comment.** Section 6602 is amended to adjust the dollar amount contained in this section. The
2 adjusted amount reflects cost-of-living increases since the amount was last changed. See 1976
3 Cal. Stat. ch. 1028, § 2 (amending former Prob. Code § 640, which was the predecessor to this
4 section); see also 1986 Cal. Stat. ch. 783 §§ 9, 23; *Recommendation Relating to Small Estate Set-*
5 *Aside*, 18 Cal. L. Revision Comm'n Reports 1101 (1986). The dollar amount is subject to
6 periodic cost-of-living adjustments going forward. See Section 890.

7 **Prob. Code § 6609 (amended). Court order to set aside estate**

8 SEC. 3. Section 6609 of the Probate Code is amended to read:

9 6609. (a) If the court determines that the net value of the decedent's estate, over
10 and above all liens and encumbrances at the date of death of the decedent and over
11 and above the value of any probate homestead interest set apart out of the
12 decedent's estate under Section 6520, does not exceed ~~twenty thousand dollars~~
13 ~~(\$20,000)~~ eighty-four thousand two hundred seventy-five dollars (\$84,275), as
14 adjusted periodically in accordance with Section 890, as of the date of the
15 decedent's death, the court shall make an order under this section unless the court
16 determines that making an order under this section would be inequitable under the
17 circumstances of the particular case.

18 (b) In determining whether to make an order under this section, the court shall
19 consider the needs of the surviving spouse and minor children, the liens and
20 encumbrances on the property of the decedent's estate, the claims of creditors, the
21 needs of the heirs or devisees of the decedent, the intent of the decedent with
22 respect to the property in the estate and the estate plan of the decedent as
23 expressed in inter vivos and testamentary transfers or by other means, and any
24 other relevant considerations. If the surviving spouse has remarried at the time the
25 petition is heard, it shall be presumed that the needs of the surviving spouse do not
26 justify the setting aside of the small estate, or any portion thereof, to the surviving
27 spouse. This presumption is a presumption affecting the burden of proof.

28 (c) Subject to subdivision (d), if the court makes an order under this section, the
29 court shall assign the whole of the decedent's estate, subject to all liens and
30 encumbrances on property in the estate at the date of the decedent's death, to the
31 surviving spouse and the minor children of the decedent, or any one or more of
32 them.

33 (d) If there are any liabilities for expenses of the last illness, funeral charges, or
34 expenses of administration that are unpaid at the time the court makes an order
35 under this section, the court shall make ~~such orders as are necessary so that the~~
36 necessary orders for payment of those unpaid liabilities are paid.

37 (e) Title to property in the decedent's estate vests absolutely in the surviving
38 spouse, minor children, or any or all of them, as provided in the order, subject to
39 all liens and encumbrances on property in the estate at the date of the decedent's
40 death, and there shall be no further proceedings in the administration of the
41 decedent's estate unless additional property in the decedent's estate is discovered.

42 **Comment.** Section 6609 is amended to adjust the dollar amount contained in this section. The
43 adjusted amount reflects cost-of-living increases since the amount was last changed. See 1976

1 Cal. Stat. ch. 1028, § 3 (amending former Prob. Code § 645, which was the predecessor to this
2 section); see also 1986 Cal. Stat. ch. 783 §§ 9, 23; *Recommendation Relating to Small Estate Set-*
3 *Aside*, 18 Cal. L. Revision Comm'n Reports 1101 (1986). The dollar amount is subject to
4 periodic cost-of-living adjustments going forward. See Section 890.

5 Subdivision (d) of Section 6609 is amended to make technical changes.

6 **Prob. Code § 13050 (amended). Exclusions in determining property or estate of decedent or**
7 **its value**

8 SEC. 4. Section 13050 of the Probate Code is amended to read:

9 13050. (a) For the purposes of this part:

10 (1) Any property or interest or lien thereon ~~which~~ that, at the time of the
11 decedent's death, was held by the decedent as a joint tenant, or in which the
12 decedent had a life or other interest terminable upon the decedent's death, or
13 ~~which~~ that was held by the decedent and passed to the decedent's surviving spouse
14 pursuant to Section 13500, shall be excluded in determining the property or estate
15 of the decedent or its value. This excluded property shall include, but not be
16 limited to, property in a trust revocable by the decedent during his or her lifetime.

17 (2) A multiple-party account to which the decedent was a party at the time of the
18 decedent's death shall be excluded in determining the property or estate of the
19 decedent or its value, whether or not all or a portion of the sums on deposit are
20 community property, to the extent that the sums on deposit belong after the death
21 of the decedent to a surviving party, P.O.D. payee, or beneficiary. For the
22 purposes of this paragraph, the terms "multiple-party account," "party," "P.O.D.
23 payee," and "beneficiary" are defined in Article 2 (commencing with Section
24 5120) of Chapter 1 of Part 2 of Division 5.

25 (b) For the purposes of this part, all of the following property shall be excluded
26 in determining the property or estate of the decedent or its value:

27 (1) Any vehicle registered under Division 3 (commencing with Section 4000) of
28 the Vehicle Code or titled under Division 16.5 (commencing with Section 38000)
29 of the Vehicle Code.

30 (2) Any vessel numbered under Division 3.5 (commencing with Section 9840)
31 of the Vehicle Code.

32 (3) Any manufactured home, mobilehome, commercial coach, truck camper, or
33 floating home registered under Part 2 (commencing with Section 18000) of
34 Division 13 of the Health and Safety Code.

35 (c) For the purposes of this part, the value of the following property shall be
36 excluded in determining the value of the decedent's property in this state:

37 (1) Any amounts due to the decedent for services in the Armed Forces of the
38 United States.

39 (2) The amount, not exceeding ~~fifteen thousand dollars (\$15,000)~~ sixteen
40 thousand three hundred twenty-five dollars (\$16,325), as adjusted periodically in
41 accordance with Section 890, of salary or other compensation, including
42 compensation for unused vacation, owing to the decedent for personal services
43 from any employment.

1 **Comment.** Section 13050 is amended to adjust the dollar amount contained in this section. The
2 adjusted amount reflects cost-of-living increases since the amount was last changed. See 2011
3 Cal. Stat. ch. 117, § 3. The dollar amount is subject to periodic cost-of-living adjustments going
4 forward. See Section 890.

5 Paragraph (a)(1) of Section 13050 is amended to make technical changes.

6 **Prob. Code § 13100 (amended). Collection or transfer of personal property without probate**
7 **SEC. 5.** Section 13100 of the Probate Code is amended to read:

8 13100. Excluding the property described in Section 13050, if the gross value of
9 the decedent’s real and personal property in this state does not exceed ~~one hundred~~
10 ~~fifty thousand dollars (\$150,000)~~ one hundred sixty-three thousand one hundred
11 fifty dollars (\$163,150), as adjusted periodically in accordance with Section 890,
12 and if 40 days have elapsed since the death of the decedent, the successor of the
13 decedent may, without procuring letters of administration or awaiting probate of
14 the will, do any of the following with respect to one or more particular items of
15 property:

16 (a) Collect any particular item of property that is money due the decedent.

17 (b) Receive any particular item of property that is tangible personal property of
18 the decedent.

19 (c) Have any particular item of property that is evidence of a debt, obligation,
20 interest, right, security, or chose in action belonging to the decedent transferred,
21 whether or not secured by a lien on real property.

22 **Comment.** Section 13100 is amended to adjust the dollar amount contained in this section.
23 The adjusted amount reflects cost-of-living increases since the amount was last changed. See
24 2011 Cal. Stat. ch. 117, § 4. This dollar amount is subject to periodic cost-of-living adjustments
25 going forward. See Section 890.

26 **Prob. Code § 13101 (amended). Contents of affidavit or declaration to collect or transfer**
27 **personal property without probate**

28 **SEC. 6.** Section 13101 of the Probate Code is amended to read:

29 13101. (a) To collect money, receive tangible personal property, or have
30 evidences of a debt, obligation, interest, right, security, or chose in action
31 transferred under this chapter, an affidavit or a declaration under penalty of
32 perjury under the laws of this state shall be furnished to the holder of the
33 decedent’s property stating all of the following:

34 (1) The decedent’s name.

35 (2) The date and place of the decedent’s death.

36 (3) “At least 40 days have elapsed since the death of the decedent, as shown in a
37 certified copy of the decedent’s death certificate attached to this affidavit or
38 declaration.”

39 (4) Either of the following, as appropriate:

40 (A) “No proceeding is now being or has been conducted in California for
41 administration of the decedent’s estate.”

1 (B) “The decedent’s personal representative has consented in writing to the
2 payment, transfer, or delivery to the affiant or declarant of the property described
3 in the affidavit or declaration.”

4 (5) “The current gross fair market value of the decedent’s real and personal
5 property in California, excluding the property described in Section 13050 of the
6 California Probate Code, does not exceed ~~one hundred fifty thousand dollars~~
7 ~~(\$150,000)~~ [Insert dollar amount specified in subdivision (g) of Probate Code
8 Section 13101].”

9 (6) A description of the property of the decedent that is to be paid, transferred,
10 or delivered to the affiant or declarant.

11 (7) The name of the successor of the decedent (as defined in Section 13006 of
12 the California Probate Code) to the described property.

13 (8) Either of the following, as appropriate:

14 (A) “The affiant or declarant is the successor of the decedent (as defined in
15 Section 13006 of the California Probate Code) to the decedent’s interest in the
16 described property.”

17 (B) “The affiant or declarant is authorized under Section 13051 of the California
18 Probate Code to act on behalf of the successor of the decedent (as defined in
19 Section 13006 of the California Probate Code) with respect to the decedent’s
20 interest in the described property.”

21 (9) “No other person has a superior right to the interest of the decedent in the
22 described property.”

23 (10) “The affiant or declarant requests that the described property be paid,
24 delivered, or transferred to the affiant or declarant.”

25 (11) “The affiant or declarant affirms or declares under penalty of perjury under
26 the laws of the State of California that the foregoing is true and correct.”

27 (b) Where more than one person executes the affidavit or declaration under this
28 section, the statements required by subdivision (a) shall be modified as appropriate
29 to reflect that fact.

30 (c) If the particular item of property to be transferred under this chapter is a debt
31 or other obligation secured by a lien on real property and the instrument creating
32 the lien has been recorded in the office of the county recorder of the county where
33 the real property is located, the affidavit or declaration shall satisfy the
34 requirements both of this section and of Section 13106.5.

35 (d) A certified copy of the decedent’s death certificate shall be attached to the
36 affidavit or declaration.

37 (e) If the decedent’s personal representative has consented to the payment,
38 transfer, or delivery of the described property to the affiant or declarant, a copy of
39 the consent and of the personal representative’s letters shall be attached to the
40 affidavit or declaration.

41 (f) If the decedent dies on or after April 1, 2022, the list of adjusted dollar
42 amounts, published in accordance with subdivision (c) of Section 890, in effect on
43 the date of the decedent’s death, shall be attached to the affidavit or declaration.

1 (g)(1) If the decedent dies prior to April 1, 2022, the dollar amount for
2 paragraph (5) of subdivision (a) is one hundred sixty-three thousand one hundred
3 fifty dollars (\$163,150).

4 (2) If the decedent dies on or after April 1, 2022, the dollar amount for
5 paragraph (5) of subdivision (a) is the adjusted dollar amount, published in
6 accordance with subdivision (c) of Section 890, in effect on the date of the
7 decedent's death.

8 **Comment.** Paragraph (a)(5) of Section 13101 is amended to adjust the dollar amount, as set
9 forth in subdivision (g).

10 Subdivision (f) is added to require that, after the dollar amounts are adjusted, the published
11 adjusted dollar amounts be attached to the affidavit or declaration.

12 Paragraph (g)(1) is added to adjust the amount to reflect cost-of-living increases since the
13 amount was last changed. See 2011 Cal. Stat. ch. 117, § 5. Paragraph (g)(2) is added to clarify
14 that this dollar amount is subject to periodic cost-of-living adjustments going forward. See
15 Section 890.

16 **Prob. Code § 13151 (amended). Petition for order determining succession to real property**

17 SEC. 7. Section 13151 of the Probate Code is amended to read:

18 13151. Exclusive of the property described in Section 13050, if a decedent dies
19 leaving real property in this state and the gross value of the decedent's real and
20 personal property in this state does not exceed ~~one hundred fifty thousand dollars~~
21 ~~(\$150,000)~~ one hundred sixty-three thousand one hundred fifty dollars (\$163,150),
22 as adjusted periodically in accordance with Section 890, and 40 days have elapsed
23 since the death of the decedent, the successor of the decedent to an interest in a
24 particular item of property that is real property, without procuring letters of
25 administration or awaiting the probate of the will, may file a petition in the
26 superior court of the county in which the estate of the decedent may be
27 administered requesting a court order determining that the petitioner has
28 succeeded to that real property. A petition under this chapter may include an
29 additional request that the court make an order determining that the petitioner has
30 succeeded to personal property described in the petition.

31 **Comment.** Section 13151 is amended to adjust the dollar amount contained in this section. The
32 adjusted amount reflects cost-of-living increases since the amount was last changed. See 2011
33 Cal. Stat. ch. 117, § 6. The dollar amount is subject to periodic cost-of-living adjustments going
34 forward. See Section 890.

35 **Prob. Code § 13152 (amended). Contents of petition for order determining succession to**
36 **real property**

37 SEC. 8. Section 13152 of the Probate Code is amended to read:

38 13152. (a) The petition shall be verified by each petitioner, shall contain a
39 request that the court make an order under this chapter determining that the
40 property described in the petition is property passing to the petitioner, and shall
41 state all of the following:

42 (1) The facts necessary to determine that the petition is filed in the proper
43 county.

1 (2) The gross value of the decedent's real and personal property in this state,
2 excluding the property described in Section 13050, as shown by the inventory and
3 appraisal attached to the petition, does not exceed ~~one hundred fifty thousand~~
4 ~~dollars (\$150,000)~~ [insert dollar amount specified in subdivision (f)].

5 (3) A description of the particular item of real property in this state ~~which~~ that
6 the petitioner alleges is property of the decedent passing to the petitioner, and a
7 description of the personal property ~~which~~ that the petitioner alleges is property of
8 the decedent passing to the petitioner if the requested order also is to include a
9 determination that the described personal property is property passing to the
10 petitioner.

11 (4) The facts upon which the petitioner bases the allegation that the described
12 property is property passing to the petitioner.

13 (5) Either of the following, as appropriate:

14 (A) A statement that no proceeding is being or has been conducted in this state
15 for administration of the decedent's estate.

16 (B) A statement that the decedent's personal representative has consented in
17 writing to use of the procedure provided by this chapter.

18 (6) Whether estate proceedings for the decedent have been commenced in any
19 other jurisdiction and, if so, where those proceedings are pending or were
20 conducted.

21 (7) The name, age, address, and relation to the decedent of each heir and devisee
22 of the decedent, the names and addresses of all persons named as executors of the
23 will of the decedent, and, if the petitioner is the trustee of a trust that is a devisee
24 under the will of the decedent, the names and addresses of all persons interested in
25 the trust, as determined in cases of future interests pursuant to paragraph (1), (2),
26 or (3) of subdivision (a) of Section 15804, so far as known to any petitioner.

27 (8) The name and address of each person serving as guardian or conservator of
28 the estate of the decedent at the time of the decedent's death, so far as known to
29 any petitioner.

30 ~~(b) There shall be attached to the petition an~~ An inventory and appraisal in the
31 form set forth in Section 8802 of the decedent's real and personal property in this
32 state, excluding the property described in Section 13050, shall be attached to the
33 petition. The appraisal shall be made by a probate referee selected by the petitioner
34 from those probate referees appointed by the Controller under Section 400 to
35 appraise property in the county where the real property is located. The appraisal
36 shall be made as provided in Part 3 (commencing with Section 8800) of Division
37 7. The petitioner may appraise the assets ~~which~~ that a personal representative
38 could appraise under Section 8901.

39 (c) If the petitioner bases his or her claim to the described property upon the will
40 of the decedent, a copy of the will shall be attached to the petition.

41 (d) If the decedent's personal representative has consented to use of the
42 procedure provided by this chapter, a copy of the consent shall be attached to the
43 petition.

1 (e) If the decedent dies on or after April 1, 2022, the list of adjusted dollar
2 amounts, published in accordance with subdivision (c) of Section 890, in effect on
3 the date of the decedent's death shall be attached to the petition.

4 (f)(1) If the decedent dies prior to April 1, 2022, the dollar amount for paragraph
5 (2) of subdivision (a) is one hundred sixty-three thousand one hundred fifty dollars
6 (\$163,150).

7 (2) If the decedent dies on or after April 1, 2022, the dollar amount for
8 paragraph (2) of subdivision (a) is the adjusted dollar amount, published in
9 accordance with subdivision (c) of Section 890, in effect on the date of the
10 decedent's death.

11 **Comment.** Paragraph (a)(2) of Section 13152 is amended to adjust the dollar amount, as set
12 forth in subdivision (f).

13 Subdivision (b) is amended to make technical changes.

14 Subdivision (e) is added to require that, after the dollar amounts are adjusted, the published
15 adjusted dollar amounts be attached to the petition.

16 Paragraph (f)(1) is added to adjust the amount to reflect cost-of-living increases since the
17 amount was last changed. See 2011 Cal. Stat. ch. 117, § 5. Paragraph (f)(2) is added to clarify that
18 this dollar amount is subject to periodic cost-of-living adjustments going forward. See Section
19 890.

20 **Prob. Code § 13154 (amended). Court order determining succession to real property**

21 SEC. 9. Section 13154 of the Probate Code is amended to read:

22 13154. (a) If the court makes the determinations required under subdivision (b),
23 the court shall issue an order determining (1) that real property, to be described in
24 the order, of the decedent is property passing to the petitioners and the specific
25 property interest of each petitioner in the described property and (2) if the petition
26 so requests, that personal property, to be described in the order, of the decedent is
27 property passing to the petitioners and the specific property interest of each
28 petitioner in the described property.

29 (b) The court may make an order under this section only if the court makes all of
30 the following determinations:

31 (1) The gross value of the decedent's real and personal property in this state,
32 excluding the property described in Section 13050, does not exceed ~~one hundred~~
33 ~~fifty thousand dollars (\$150,000)~~ one hundred sixty-three thousand one hundred
34 fifty dollars (\$163,150), as adjusted periodically in accordance with Section 890.

35 (2) Not less than 40 days have elapsed since the death of the decedent.

36 (3) Whichever of the following is appropriate:

37 (A) No proceeding is being or has been conducted in this state for administration
38 of the decedent's estate.

39 (B) The decedent's personal representative has consented in writing to use of the
40 procedure provided by this chapter.

41 (4) The property described in the order is property of the decedent passing to the
42 petitioner.

1 (c) If the petition has attached an inventory and appraisal that satisfies the
2 requirements of subdivision (b) of Section 13152, the determination required by
3 paragraph (1) of subdivision (b) of this section shall be made on the basis of the
4 verified petition and the attached inventory and appraisal, unless evidence is
5 offered by a person opposing the petition that the gross value of the decedent's
6 real and personal property in this state, excluding the property described in Section
7 13050, exceeds ~~one hundred fifty thousand dollars (\$150,000)~~ one hundred sixty-
8 three thousand one hundred fifty dollars (\$163,150), as adjusted periodically in
9 accordance with Section 890.

10 **Comment.** Section 13154 is amended to adjust the dollar amount contained in this section. The
11 adjusted amount reflects cost-of-living increases since the amount was last changed. See 2011
12 Cal. Stat. ch. 117, § 8. The dollar amount is subject to periodic cost-of-living adjustments going
13 forward. See Section 890.

14 **Prob. Code § 13200 (amended). Contents of affidavit for collection of real property of small**
15 **value**

16 SEC. 10. Section 13200 of the Probate Code is amended to read:

17 13200. (a) No sooner than six months from the death of a decedent, a person or
18 persons claiming as successor of the decedent to a particular item of property that
19 is real property may file in the superior court in the county in which the decedent
20 was domiciled at the time of death, or if the decedent was not domiciled in this
21 state at the time of death, then in any county in which real property of the decedent
22 is located, an affidavit in the form prescribed by the Judicial Council pursuant to
23 Section 1001 stating all of the following:

24 (1) The name of the decedent.

25 (2) The date and place of the decedent's death.

26 (3) A legal description of the real property and the interest of the decedent
27 therein.

28 (4) The name and address of each person serving as guardian or conservator of
29 the estate of the decedent at the time of the decedent's death, so far as known to
30 the affiant.

31 (5) "The gross value of all real property in the decedent's estate located in
32 California, as shown by the inventory and appraisal attached to this affidavit,
33 excluding the real property described in Section 13050 of the California Probate
34 Code, does not exceed ~~fifty thousand dollars (\$50,000)~~ [insert dollar amount
35 specified in subdivision (h)]."

36 (6) "At least six months have elapsed since the death of the decedent as shown
37 in a certified copy of decedent's death certificate attached to this affidavit."

38 (7) Either of the following, as appropriate:

39 (A) "No proceeding is now being or has been conducted in California for
40 administration of the decedent's estate."

41 (B) "The decedent's personal representative has consented in writing to use of
42 the procedure provided by this chapter."

1 (8) “Funeral expenses, expenses of last illness, and all unsecured debts of the
2 decedent have been paid.”

3 (9) “The affiant is the successor of the decedent (as defined in Section 13006 of
4 the Probate Code) and to the decedent’s interest in the described property, and no
5 other person has a superior right to the interest of the decedent in the described
6 property.”

7 (10) “The affiant declares under penalty of perjury under the laws of the State of
8 California that the foregoing is true and correct.”

9 (b) For each person executing the affidavit, the affidavit shall contain a notary
10 public’s certificate of acknowledgment identifying the person.

11 (c) ~~There shall be attached to the affidavit an~~ An inventory and appraisal of the
12 decedent’s real property in this state, excluding the real property described in
13 Section 13050 , shall be attached to the affidavit. The inventory and appraisal of
14 the real property shall be made as provided in Part 3 (commencing with Section
15 8800) of Division 7. The appraisal shall be made by a probate referee selected by
16 the affiant from those probate referees appointed by the Controller under Section
17 400 to appraise property in the county where the real property is located.

18 (d) If the affiant claims under the decedent’s will and no estate proceeding is
19 pending or has been conducted in California, a copy of the will shall be attached to
20 the affidavit.

21 (e) A certified copy of the decedent’s death certificate shall be attached to the
22 affidavit. If the decedent’s personal representative has consented to the use of the
23 procedure provided by this chapter, a copy of the consent and of the personal
24 representative’s letters shall be attached to the affidavit.

25 (f) If the decedent dies on or after April 1, 2022, the list of adjusted dollar
26 amounts, published in accordance with subdivision (c) of Section 890, in effect on
27 the date of the decedent’s death shall be attached to the affidavit.

28 ~~(g)~~ (g) The affiant shall deliver pursuant to Section 1215 a copy of the affidavit
29 and attachments to any person identified in paragraph (4) of subdivision (a).

30 (h)(1) When the decedent dies prior to April 1, 2022, the dollar amount for
31 paragraph (5) of subdivision (a) is fifty-four thousand three hundred seventy-five
32 (\$54,375).

33 (2) When the decedent dies on or after April 1, 2022, the dollar amount for
34 paragraph (5) of subdivision (a) is the adjusted dollar amount, published in
35 accordance with subdivision (c) of Section 890, in effect on the date of the
36 decedent’s death.

37 **Comment.** Paragraph (a)(5) of Section 13200 is amended to adjust the dollar amount, as set
38 forth in subdivision (h).

39 Subdivision (c) is amended to make technical changes.

40 Subdivision (f) is added to require that, after the dollar amounts are adjusted, the published
41 adjusted dollar amounts be attached to the affidavit.

42 Paragraph (h)(1) is added to adjust the amount to reflect cost-of-living increases since the
43 amount was last changed. See 2011 Cal. Stat. ch. 117, § 9. Paragraph (h)(2) is added to clarify

1 that this dollar amount is subject to periodic cost-of-living adjustments going forward. See
2 Section 890.

3 **Prob. Code § 13600 (amended). Authority to collect salary or other compensation**

4 SEC. 11. Section 13600 of the Probate Code is amended to read:

5 13600. (a) At any time after a spouse dies, the surviving spouse or the guardian
6 or conservator of the estate of the surviving spouse may, without procuring letters
7 of administration or awaiting probate of the will, collect salary or other
8 compensation owed by an employer for personal services of the deceased spouse,
9 including compensation for unused vacation, not in excess of ~~fifteen thousand~~
10 ~~dollars (\$15,000)~~ sixteen thousand three hundred twenty-five dollars (\$16,325), as
11 adjusted periodically in accordance with Section 890, net.

12 (b) Not more than ~~fifteen thousand dollars (\$15,000)~~ sixteen thousand three
13 hundred twenty-five dollars (\$16,325), as adjusted periodically in accordance with
14 Section 890, net in the aggregate may be collected by or for the surviving spouse
15 under this chapter from all of the employers of the decedent.

16 (c) For the purposes of this chapter, a guardian or conservator of the estate of the
17 surviving spouse may act on behalf of the surviving spouse without authorization
18 or approval of the court in which the guardianship or conservatorship proceeding
19 is pending.

20 (d) The ~~fifteen thousand dollars (\$15,000) net limitation~~ dollar limit set forth in
21 subdivisions (a) and (b) does not apply to the surviving spouse or the guardian or
22 conservator of the estate of the surviving spouse of a firefighter or peace officer
23 described in subdivision (a) of Section 22820 of the Government Code.

24 ~~(e) On January 1, 2003, and on January 1 of each year thereafter, the maximum~~
25 ~~net amount of salary or compensation payable under subdivisions (a) and (b) to the~~
26 ~~surviving spouse or the guardian or conservator of the estate of the surviving~~
27 ~~spouse may be adjusted to reflect any increase in the cost of living occurring after~~
28 ~~January 1 of the immediately preceding year. The United States city average of the~~
29 ~~“Consumer Price Index for All Urban Consumers,” as published by the United~~
30 ~~States Bureau of Labor Statistics, shall be used as the basis for determining the~~
31 ~~changes in the cost of living. The cost of living increase shall equal or exceed 1~~
32 ~~percent before any adjustment is made. The net amount payable may not be~~
33 ~~decreased as a result of the cost of living adjustment.~~

34 **Comment.** Section 13600 is amended to adjust the dollar amount contained in this section. The
35 adjusted amount reflects cost-of-living increases since the amount was last changed. See 2011
36 Cal. Stat. ch. 117, § 10. The dollar amount is subject to periodic cost-of-living adjustments going
37 forward. See Section 890.

38 Subdivision (d) is amended to make a technical change.

39 Subdivision (e) is repealed. The dollar amounts in this section will be subject to periodic cost-
40 of-living adjustments going forward. See Section 890.

1 **Prob. Code § 13601 (amended). Contents of affidavit or declaration and proof of identity to**
2 **collect salary or other compensation**

3 SEC. 12. Section 13601 of the Probate Code is amended to read:

4 13601. (a) To collect salary or other compensation under this chapter, an
5 affidavit or a declaration under penalty of perjury under the laws of this state shall
6 be furnished to the employer of the deceased spouse stating all of the following:

7 (1) The name of the decedent.

8 (2) The date and place of the decedent's death.

9 (3) Either of the following, as appropriate:

10 (A) "The affiant or declarant is the surviving spouse of the decedent."

11 (B) "The affiant or declarant is the guardian or conservator of the estate of the
12 surviving spouse of the decedent."

13 (4) "The surviving spouse of the decedent is entitled to the earnings of the
14 decedent under the decedent's will or by intestate succession and no one else has a
15 superior right to the earnings."

16 (5) "No proceeding is now being or has been conducted in California for
17 administration of the decedent's estate."

18 (6) "Sections 13600 to 13605, inclusive, of the California Probate Code require
19 that the earnings of the decedent, including compensation for unused vacation, not
20 in excess of ~~fifteen thousand dollars (\$15,000)~~ [insert dollar amount specified in
21 subdivision (e)] net, be paid promptly to the affiant or declarant."

22 (7) "Neither the surviving spouse, nor anyone acting on behalf of the surviving
23 spouse, has a pending request to collect compensation owed by another employer
24 for personal services of the decedent under Sections 13600 to 13605, inclusive, of
25 the California Probate Code."

26 (8) "Neither the surviving spouse, nor anyone acting on behalf of the surviving
27 spouse, has collected any compensation owed by an employer for personal
28 services of the decedent under Sections 13600 to 13605, inclusive, of the
29 California Probate Code except the sum of ____ dollars (\$____) ~~which~~ that was
30 collected from ____."

31 (9) "The affiant or declarant requests that he or she be paid the salary or other
32 compensation owed by you for personal services of the decedent, including
33 compensation for unused vacation, not to exceed ~~fifteen thousand dollars~~
34 ~~(\$15,000)~~ [insert dollar amount specified in subdivision (e)] net, less the amount
35 of ____ dollars (\$____) ~~which~~ that was previously collected."

36 (10) "The affiant or declarant affirms or declares under penalty of perjury under
37 the laws of the State of California that the foregoing is true and correct."

38 (b) Where the decedent is a firefighter or peace officer described in subdivision
39 (a) of Section 22820 of the Government Code, the affidavit or declaration need not
40 include the content specified in paragraphs (6) through (9) of subdivision (a). The
41 affidavit shall instead include the following statements:

42 (1) "The decedent was a firefighter or peace officer described in subdivision (a)
43 of Section 22820 of the Government Code. Sections 13600 to 13605, inclusive, of

1 the California Probate Code require that the earnings of the decedent, including
2 compensation for unused vacation, be paid promptly to the affiant or declarant.”

3 (2) “The affiant or declarant requests to be paid the salary or other compensation
4 owed by you for personal services of the decedent, including compensation for
5 unused vacation.”

6 (b) (c) Reasonable proof of the identity of the surviving spouse shall be provided
7 to the employer. If a guardian or conservator is acting for the surviving spouse,
8 reasonable proof of the identity of the guardian or conservator shall also be
9 provided to the employer. Proof of identity that is sufficient under Section 13104
10 is sufficient proof of identity for the purposes of this subdivision.

11 (e) (d) If a person presenting the affidavit or declaration is a person claiming to
12 be the guardian or conservator of the estate of the surviving spouse, the employer
13 shall be provided with reasonable proof, satisfactory to the employer, of the
14 appointment of the person to act as guardian or conservator of the estate of the
15 surviving spouse.

16 (e)(1) When the decedent dies prior to April 1, 2022, the dollar amount for
17 paragraphs (6) and (9) of subdivision (a) is sixteen thousand three hundred twenty-
18 five dollars (\$16,325).

19 (2) When the decedent dies on or after April 1, 2022, the dollar amount for
20 paragraphs (6) and (9) of subdivision (a) is the adjusted dollar amount, published
21 in accordance with subdivision (c) of Section 890, in effect on the date of the
22 decedent’s death. The affiant or declarant shall attach the list of adjusted dollar
23 amounts, published in accordance with subdivision (c) of Section 890, in effect on
24 the date of the decedent’s death to the affidavit or declaration.

25 **Comment.** Paragraphs (a)(6) and (a)(9) of Section 13601 are amended to adjust the dollar
26 amount, as set forth in subdivision (e).

27 Subdivision (b) is added to clarify that the affidavit or declaration of a surviving spouse (or
28 guardian or conservator of the estate of a surviving spouse, if applicable) of a firefighter or peace
29 officer described in Government Code Section 22820(a) need not include provisions related to the
30 dollar limit set forth in Section 13600(a) and (b). This change is made to conform to the effect of
31 Section 13600(d).

32 Paragraph (e)(1) is added to adjust the amount to reflect cost-of-living increases since the
33 amount was last changed. See 2011 Cal. Stat. ch. 117, § 11. Paragraph (e)(2) is added to clarify
34 that this dollar amount is subject to periodic cost-of-living adjustments going forward. See
35 Section 890. Paragraph (e)(2) also requires that, after the dollar amounts are adjusted, the
36 published adjusted dollar amounts be attached to the affidavit or declaration.

37 **Prob. Code § 13602 (amended). Payment of salary or other compensation by employer**

38 SEC. 13. Section 13602 of the Probate Code is amended to read:

39 13602. If the requirements of Section 13600 are satisfied, the employer to whom
40 the affidavit or declaration is presented shall promptly pay the earnings of the
41 decedent, including compensation for unused vacation, ~~not in excess of fifteen~~
42 ~~thousand dollars (\$15,000) net~~ as provided in Section 13600, to the person
43 presenting the affidavit or declaration.

1 **Comment.** Section 13602 is amended to clarify that the employer’s obligation to pay the
2 person presenting the affidavit or declaration is subject to any applicable limitation set forth in
3 Section 13600. This technical change is made to conform to the effect of Section 13600(d).
