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STATE OF CALIFORNIA

# CALIFORNIA LAW REVISION COMMISSION

*Pre-Print* RECOMMENDATION

Disposition of Estate Without Administration:  
Dollar Amounts

**Note:** This is a pre-print report. The Law Revision Commission has approved the substance of this report, but minor editorial changes may be made prior to final publication.

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## 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

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

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

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

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### SCOPE OF THE ISSUE

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

- 19 • *Small Estate Set-Aside* (Sections 6600-6615). These provisions allow the  
20 decedent's spouse and/or minor children to petition the court to set the  
21 decedent's estate aside for them. The procedure is only applicable when the  
22 value of the estate (subject to specified exclusions<sup>3</sup>) does not exceed  
23 \$20,000.
- 24 • *Affidavit Procedure for Collection or Transfer of Personal Property*  
25 (Sections 13100-13116). These provisions permit a decedent's successor<sup>4</sup> to  
26 collect certain property without administration, when the gross value of the  
27 decedent's real and personal property in this state does not exceed \$150,000  
28 (subject to Section 13050, described below).
- 29 • *Transfer of Real Property Without Administration* (Sections 13150-13158).  
30 Under these provisions, a court may order the transfer of real property to a

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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 successor<sup>5</sup> 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 successor<sup>6</sup> 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.<sup>7</sup> 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."<sup>8</sup>

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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

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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.<sup>9</sup>

6

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.<sup>10</sup> 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.

13

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.

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Proposed Probate Code Section 890 uses the same triennial cycle for adjusting the relevant dollar amounts as Code of Civil Procedure Section 703.150.<sup>11</sup> 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.

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## RELATED TECHNICAL CHANGES

22

The Commission also recommends making the following related technical changes:

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- 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.

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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.<sup>12</sup>

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

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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 that is 40 months 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).

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