Navigating The Maze: Estate Administration With LLCs

RITZI LAM LAW OFFICE OF RITZI LAM 1990 N. CALIFORNIA BLVD, 8TH FLOOR WALNUT CREEK, CA 94596 T: (925) 322-1584 <u>www.rltrustlaw.com</u> <u>ritzi@rltrustlaw.com</u>

VAHISHTA FALAHATI FALAHATI LAW, APC 201 N. CIVIC DR. SUITE 230 WALNUT CREEK, CA 94596 T: (925) 766-4674 <u>www.falahatilaw.com</u> vf@falahatilaw.com

MICHAEL BEUSELINCK MICHAEL BEUSELINCK P.C. 490 43RD STREET #37 OAKLAND, CA 94609 T: (925) 800-3032 http://www.lawmtb.com mike@lawmtb.com

KEY BENEFITS AND PROTECTIONS

- Separate Legal Entity: LLC is recognized as a legal entity separate from its members; LLC members are not personally liable for the LLC's debts or obligations, except in cases of fraud or personal guarantees
- ► Asset Protection: Shields personal assets from business liabilities
- Management Options: Offers flexibility with either member-managed or manager-managed structures
- Tax Efficiency: "Pass-through" taxation avoids corporate-level taxes; simplifying the tax process for members

KEY DOCUMENTS FOR FORMATION

- Articles of Organization: Filed with the California Secretary of State to establish the LLC
- Operating Agreement: Governs the duties amongst members, and outlines the LLC's management structure, roles, and responsibilities
- Statement of Information: Filed periodically with the Secretary of State, detailing key business and member information
- Employer Identification Number (EIN): Issued by the IRS for tax and banking purposes

ESSENTIAL FACTORS TO EVALUATE BEFORE FORMING AN LLC

Member-Managed

- □ All members actively participate in daily operations
- Decisions made collectively by members

Manager-Managed

- Selected managers handle daily operations
- □ Members may take on a more passive, oversight role

CAPITAL CONTRIBUTIONS

Forms of Contribution:

- Property
- □ Money or services performed
- □ Promissory notes or agreements to contribute money
- □ Contracts for services to be performed
- Any "benefit" to the LLC qualifies as a valid contribution (Corps. Code §§ 17704.01(d), 17704.02)

CAPITAL CONTRIBUTIONS

- Asset Ownership: When members contribute assets to an LLC, those assets legally become the property of the LLC. They are no longer considered personal assets of the contributing members
- Significance: This fundamental principle ensures that the LLC operates as a separate legal entity, distinct from its members
- Thin Capitalization and Liability: Members of an LLC that is thinly capitalized may be personally liable for LLC obligations under the alter ego doctrine (Corps. Code § 17703.04(b))

CAPITAL CONTRIBUTIONS TRANSFER OF PROPERTY

An **Acceleration Clause** in Promissory Notes and Deeds of Trust gives lenders the authority to require full loan repayment under specific conditions, such as property ownership changes

Sample Language:

If all or any part of the Property or <u>any interest</u> in the Property is sold or <u>transferred</u> without Lender's prior written consent, Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. However, this option will not be exercised by Lender if exercise is prohibited by applicable laws.

If Lender exercises this option, Lender will give Borrower <u>notice of acceleration</u>. The notice will provide a period of not less than 30 days from the date the notice is given in accordance with the Security Instrument within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

OTHER CONSIDERATIONS – PERSONAL GUARANTEES

Personal Guarantees in LLC Transactions:

- Banks and financial institutions often require LLC members to personally guarantee loans before extending credit to the LLC
- Similarly, landlords may demand personal guarantees from LLC members for lease agreements

CRITICAL CLAUSES IN LLC OPERATING AGREEMENT

- □ % of member vote required to approve transaction
- **B**uyout
- Succession Language
- Mediation / Arbitration Provisions

FIDUCIARY DUTIES IN LLC

Overview of Fiduciary Duties:

- Duty of Loyalty: Members and managers must prioritize the interests of the LLC and its members over their personal gains
- Duty of Care: Members and managers are required to make informed and prudent decisions to avoid negligence or misconduct
- LLC's operating agreement cannot eliminate the fiduciary duties of its members or managers
- These restrictions are outlined in California Corporations Code §17701.10(c)(4), (5), (14), (15) and §17704.09

PIERCING THE CORPORATE VEIL AND ALTER EGO DOCTRINE

When personal actions blur separation between individual and LLC, liability protections may be removed

- Commingling: Mixing personal and business finances undermines LLC's legal protections
- **Under Capitalization:** Insufficient funding at formation exposes members to liability
- Corporate Formalities: Maintaining clear operational procedures and documentation preserves liability protections
- Fraud: If a member commits fraud, the liability protection typically offered by the LLC structure can be pierced. This means that the fraudulent member's personal assets may no longer be shielded from legal action

LLC DISSOLUTION METHODS AND CONSIDERATIONS

- Majority Vote of Members: Members can vote to dissolve the LLC through a majority agreement, subject to the operating agreement or state statutes (e.g., vote of 50% or more may be required to commence dissolution)
- Judicial Dissolution: Court intervention to dissolve the LLC due to disputes or failure to fulfill operational requirements.
- Mediation / Arbitration: Alternative dispute resolution methods to handle dissolution conflicts outside of court proceedings
- Buyout: Allows members to purchase an exiting member's interest, following provisions in the operating agreement or statutory provisions

ADMINISTERING AN ESTATE WITH LLC DURING A MEMBER'S INCAPACITY

Management/Knowledge Issues:

- If a managing member is incapacitated managed the LLC, who will take over operations?
- Who votes on behalf of the incapacitated member?

Defining Incapacity:

- Some operating agreements will explicitly define incapacity.
 - Sample language: "**Incapacity**" shall mean that the Corporation or a Shareholder has received either of the following: (i) a written and signed declaration, under penalty of perjury, from two (2) licensed physicians, one of whom is the person's treating physician, opining that such person is physically or mentally incapacitated; or (ii) the order of a court of competent jurisdiction declaring such person to be incompetent or otherwise legally incapable of handling his own affairs, and/or appointing a conservator of such person's estate and/or person

ADMINISTERING AN ESTATE WITH LLC DURING A MEMBER'S INCAPACITY

If operating agreement does not define incapacity, refer to:

- the Trust, if the incapacitated member is a member in their capacity as a Trustee
- Durable Power of Attorney, if the incapacitated member is a member in their individual capacity
- If there is no Trust and no DPOA, a conservatorship may be the only option

Applying for Conservatorship- specific power to operate a business. Probate Code § 2591: "The powers referred to in Section 2590 are:

(a) The power to operate, for a period longer than 45 days, at the risk of the estate a business, farm, or enterprise constituting an asset of the estate [...]"

ADMINISTERING AN ESTATE WITH LLC AFTER A MEMBER'S DEATH

Procedural Issues:

- If decedent died intestate:
 - Probate
 - Spousal Property Petition
- If membership not in Decedent's Trust, but was listed in Schedule of Assets or General Assignment exists:
 - 850 Petition for determination of decedent's membership interest
- Transfer/assignment or purchase of the decedent's membership interest
 - Always refer to Operating Agreement: What is allowed? Are there prohibited transferees?
- Buy-Out
 - Personal Representative or Trustee may end up being the selling member

VALUATION- APPRAISAL

Valuation/Appraisal:

- LLC as a whole
- The decedent's interest
 - The valuation of the interest is not based on the corresponding percentage of the value of the underlying real property
 - Discounts:
 - Minority discount/control premium
 - Lack of marketability

VALUATION- APPRAISAL

EXAMPLE: Decedent held a 12.45% limited partnership interest

- Underlying real property is worth \$13,100,000
- A straight 12.45% = \$1,630,950.00
- Discounts: Lack of marketability, lack of control- namely the General Partner had sole and final discretion on any distributions, severe restraints on transferability of the interest
- Almost 49% discount taken, the 12.45% LP interest is \$999,861

SOME LIQUIDITY CONCERNS-ANTICIPATE COSTS

Appraisal Costs to Anticipate:

- Commercial Property: ~\$40,000
- LLCs & Fractional Interests: ~\$10,000–\$15,000

Why Appraisals Are Expensive:

- Conducted by **licensed professionals**
- Considerations include: Property structure, existing loans, revenue, capital improvements, vacancy rates
- Must be defensible in the event of an audit
- Required for **Form 706** if the estate is subject to estate tax

LIQUIDITY CONCERNS: EXTENSION OF TIME FOR ESTATE TAX PAYMENT – 26 U.S. CODE § 6166

When Applicable:

• If a closely held business makes up **more than 35%** of the decedent's gross estate.

Key Provisions:

- Estate tax may be paid in **2 to 10 equal installments**.
- **First installment** is due **no later than 5 years** after the decedent's death.
- Subsequent payments are due **annually** on or before the anniversary of the first installment.

Purpose:

• To **avoid forced sale** of a family-owned business to cover estate taxes.

ADVISING A BENEFICIARY

Set Expectations:

- Beneficiaries may need education regarding the valuation of an LLC interest.
- Beneficiaries need understand that they are often inheriting an interest in which they have little to no control

CONFLICTS BETWEEN MEMBERS AND MANAGERS

□ Valuation

Management

Business strategy

Dissolution / Partition

LIQUIDITY ISSUES

- Loan acceleration
- **Estate tax**
- □ 1031 Exchange
- Supplemental property taxes

Events of Reassessment:

- "Change in ownership" = cumulatively more than 50% of the original co-owners' interests in the legal entity is transferred
- "Change in control" = a person or entity obtains (directly or indirectly) more than 50 percent of the ownership interest in the entity
- □ *All interests* in real property are subject to reassessment

Methods of Discovery for Events of Reassessment:

- **BOE-100-B**
- □ Annual FTB income tax return
- □ Assessor report to BOE (news, personal property report, etc.)

BOE-100-B

- Filing with due 90 days from change in ownership / change in control
 Date of death
 - □Must file even with insufficient information on final distributions
 - □Electronic filing now available

BOE-100-B

- □ Late filing penalty = 10% of taxes applicable to new base year value
- □ Appeal to abate the penalty within 60 days of notice.
 - "If the assessee establishes to the satisfaction of the county board of equalization or the assessment appeals board that the failure to file the change in ownership statement within the time required by subdivision (a) of Section 482 was due to reasonable cause and circumstances beyond the assessee's control, and occurred notwithstanding the exercise of ordinary care in the absence of willful neglect..." RTC § 483



Legal Entity Ownership Program (LEOP)

Important Notice: The Legal Entity Ownership Program (LEOP), now offers the BOE-100-B, *Statement of Change in Control and Ownership of Legal Entities* on our website to complete, sign, and submit electronically.

General

The Board of Equalization's (Board's) Legal Entity Ownership Program (LEOP) gathers and disseminates to county assessors information regarding <u>changes in control</u> and <u>changes in ownership</u> of <u>legal entities</u> that own or lease an <u>interest in California</u> <u>real property</u>. Such changes in ownership or changes in control require reassessment of the real property interests. Thus, the purpose of the program is to assist county assessors in discovering changes in control or changes in ownership that have not been captured by a county's own discovery systems. The program is needed because, ordinarily, transfers of <u>ownership</u> <u>interests</u> in legal entities do not involve a recorded deed or other notice that would inform county assessors.

The Board reviews form BOE-100-B, *Statement of Change in Control and Ownership of Legal Entities* and determines whether a transfer is either a change in control or a change in ownership. Once the Board determines that either of these events has occurred, and that an interest in California real property is subject to reassessment, the information is reported to the county assessors. The task of reassessing such real property is the responsibility of the county assessor where the property is located.

Forms and Filing

Legal entities subject to penalties if they fail to file a change in ownership statement with the Board **within 90 days** following a change in control or a change in ownership where the entity or any subsidiary entity owned or held California real property at the time of the change. A legal entity must also file a change in ownership statement within 90 days of the Board's written request. (See <u>Filing Requirements</u> below.) (PLEASE NOTE: Prior to January 1, 2012, the deadline was 45 days.) The change in ownership statement that must be filed by legal entities is form BOE-100-B, *Statement of Change in Control and Ownership of Legal Entities*. In some cases, an <u>exclusion</u> from change in control or change in ownership may be applicable.

Complete form <u>BOE-100-B</u>, Statement of Change in Control and Ownership of Legal Entities.

Links to further information on transfers involving legal entities are below:

- → Definition of Legal Entity and Ownership Interest
- → Definition of Change in Control
- Definition of Change in Ownership
- Definition of Interest in Real Property
- → Result of Change in Control or Change in Ownership
- Exclusions from Reassessment
- Filing Requirements and Penalty Provisions
- Forms and Instructions
- Amended Filings
- → Discovery Methods for Changes in Control and Changes in Ownership
- Frequently Asked Questions



Thank you!!

We appreciate your time and attention.

Ritzi Lam

Law Office of Ritzi Lam 1990 N. California Blvd, 8th Floor Walnut Creek, CA 94596 T: (925) 322-1584 <u>www.rltrustlaw.com</u> <u>ritzi@rltrustlaw.com</u>

Vahishta Falahati

Falahati Law, APC 201 N. Civic Dr. Suite 230 Walnut Creek, CA 94596 T: (925) 766-4674 <u>www.falahatilaw.com</u> <u>vf@falahatilaw.com</u>

Michael Beuselinck

Michael Beuselinck P.C. 490 43RD Street #37 Oakland, CA 94609 T: (925) 800-3032 <u>http://www.lawmtb.com</u> <u>mike@lawmtb.com</u>

Are Trusts Dead after April 1, 2025? A Deep Dive into AB 2016 and the New Primary Residence Exclusion from Probate

Amanda L. Sinclair, Esq. & Esther Kim, Esq.

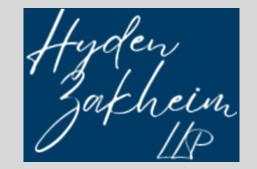
Today's Agenda

- AB2016 Walkthrough of Legislative Changes
- Unique Issues Presented by New Law
- Common Procedures to Administer Real Property in California
- County-by-County Housing Statistics
- Overview of §13151 Process (with Hypothetical)
- Estate Planning Considerations
- Title Insurance Considerations
- Summary
- Final Questions & Wrap-Up
 - Bonus Content: Assembly Bill 2397 (time permitting)

About the Presenter



Amanda L. Sinclair Attorney at Law Certified Specialist in Estate Planning, Trust, & Probate Law, by the State Bar of California, Board of Specialization



as@hydenzakheimlaw.com

About the Moderator



Esther Kim Attorney at Law Co-Chair of the Contra Costa County Estate Planning and Probate Section



TURNER, HUGUET, ADAMS & FARR

ekim@thalaw.com

Questions?

Please put in chat for the moderator, we'll stop at the end of each section for questions from both the chat and inperson. Thank you!

All participants will receive a copy of the presentation

(including links to the new laws and judicial council forms)

<u>Special Note</u>: At the time of preparation of this presentation only proposed forms were available. Therefore, the presentation may not contain the most up to date information; independent confirmation of published small estate values, application of new law, and Judicial Council forms is required before application of new law to any matter, advising clients, and before submitting any petition to any Court.

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ASSEMBLYBILL2016

An act to amend § § 13100, 13101, 13150, 13151, 13152, and 13154 of, and to repeal Section 13158 of, the California Probate Code, relating to estates.

https://legiscan.com/CA/text/AB2016/id/3022194/California-2023-AB2016-Chaptered.html

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Legislative Voting Records

(Just in case you were wondering if it was a nail-biter)

Chamber	Vote	Date	Yea	Nay	NV	Abs	Total	Result
Assembly	<u>AB2016 Maienschein</u> <u>Concurrence in Senate</u> <u>Amendments</u>	2024-08-27	77	0	0	2	79	Passed
Senate	<u>Assembly 3rd Reading</u> <u>AB2016 Maienschein et al.</u> <u>By Laird</u>	2024-08-26	39	0	0	1	40	Passed
Senate	<u>Do pass</u>	2024-07-02	10	0	0	1	11	Passed
Assembly	<u>AB2016 Maienschein</u> <u>Consent Calendar Second</u> <u>Day Regular Session</u>	2024-04-18	72	0	0	8	80	Passed
Assembly	<u>Do pass. To Consent</u> <u>Calendar</u>	2024-04-10	14	0	0	1	15	Passed
Assembly	<u>Do pass and be re-referred</u> <u>to the Committee on</u> [Appropriations]	2024-03-12	10	0	0	2	12	Passed

WALKTHROUGH OF LEGISLATIVE CHANGES

Bill Te xt: SECTION 1.

§13100 of the Probate Code is amended to read:

Red is removed text Blue is added text

13100. Collection or transfer of personal property without probate

Excluding the property described in Section 13050-13050 and any property included in a petition filed under section 13151, if the gross value of the decedent's real and personal property in this state does not exceed one hundred sixty-six thousand two hundred fifty dollars (\$166,250), as adjusted periodically in accordance with Section 890, and if 40 days have elapsed since the death of the decedent, the successor of the decedent may, without procuring letters of administration or awaiting probate of the will, do any of the following with respect to one or more particular items of property:

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

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

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

What Changes to §13100 Do

- In addition to the exclusions provided by Section 13050, e.g., joint tenant, life estate, multiple-party accounts, certain vehicles, vessels, and mobile homes
- <u>Also exempts property included in a Petition under the newly amended §13151</u> when determining the value of an estate and whether the small estate exemption to probate applies
- <u>Spoiler Alert</u>: The Decedent's primary residence in California is exempted from formal probate if it meets certain criteria

Refresher: CA Probate Code §13050

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

- (1) Any property or interest or lien thereon that, at the time of the decedent's death, was held by the decedent as a joint tenant, or in which the decedent had a life or other interest terminable upon the decedent's death, or that was held by the decedent and passed to the decedent's surviving spouse pursuant to Section 13500, shall be excluded in determining the property or estate of the decedent or its value. This excluded property shall include, but not be limited to, property in a trust revocable by the decedent during the decedent's lifetime.
- (2) A multiple-party account to which the decedent was a party at the time of the decedent's death shall be excluded in determining the property or estate of the decedent or its value, whether or not all or a portion of the sums on deposit are community property, to the extent that the sums on deposit belong after the death of the decedent to a surviving party, P.O.D. payee, or beneficiary. For the purposes of this paragraph, the terms "multiple-party account," "party," "P.O.D. payee," and "beneficiary" are defined in Article 2 (commencing with Section 5120) of Chapter 1 of Part 2 of Division 5.
- (b) For the purposes of this part, all of the following property shall be excluded in determining the property or estate of the decedent or its value:
- (1) Any vehicle registered under Division 3 (commencing with Section 4000) of the Vehicle Code or titled under Division 16.5 (commencing with Section 38000) of the Vehicle Code.
- (2) Any vessel numbered under Division 3.5 (commencing with Section 9840) of the Vehicle Code.
- (3) Any manufactured home, mobilehome, commercial coach, truck camper, or floating home registered under Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code.
- (c) For the purposes of this part, the value of the following property shall be excluded in determining the value of the decedent's property in this state:
- (1) Any amounts due to the decedent for services in the Armed Forces of the United States.
- (2) The amount, not exceeding sixteen thousand six hundred twenty-five dollars (\$16,625), as adjusted periodically in accordance with Section 890, of salary or other compensation, including compensation for unused vacation, owing to the decedent for personal services from any employment.

• (Amended by Stats. 2019, Ch. 122, Sec. 4. (AB 473) Effective January 1, 2020.)

New Probate Code Values Effective April 1, 2025(will be published April 28, 2025 when new form **DE-300** released)

Critical Form for Small Estate Administration Procedures

Here are the

values through

March 31, 2025:

MAXIMUM VALUES FOR SMALL ESTATE SET-ASIDE & DISPOSITION OF ESTATE WITHOUT ADMINISTRATION

This form lists the maximum dollar values of a decedent's estate or specific property in that estate, as of the date of the decedent's death, for purposes of determining eligibility for

(1) an order setting the estate aside for the decedent's surviving spouse and minor children; or

(2) disposition of the estate or specific real or personal property in the estate informally, without full administration.

NOTE: The values in the left column apply to the estate of a decedent who died before April 1, 2022. The values in the right column apply to property of a decedent who died on or after April 1, 2022.

The amount of the adjustment of the prior values is based on the change in the United States city average of the Consumer Price Index for All Urban Consumers for the three-year period ending December 31, 2021, with each adjusted value rounded to the nearest \$25. (See Prob. Code, § 890(b).) Unless otherwise provided by statute after April 1, 2022, these values will next be adjusted April 1, 2025.

	before \pr. 1, 2022) \$ 85,900 \$ 16,625	on or aft Apr. 1, 20 \$ 95,3 \$ 18,4
excluding all liens and encumbrances at the date of death and the value of any probate homestead set apart under Probate Code section 6520, must not exceed: DISPOSITION OF ESTATE WITHOUT ADMINISTRATION UNDER SECTIONS 13000–13606 a. PROPERTY EXCLUDED FROM DETERMINING VALUE OF ESTATE § 13050(c) The amount of any salary or other compensation owed to the decedent, not to exceed: b. AFFIDAVIT FOR COLLECTION, RECEIPT, OR TRANSFER OF PERSONAL PROPERTY §§ 13100, 13101 The gross value of the decedent's real and personal property in California, excluding the property described in Probate Code section 13050, must not exceed: c. PETITION & COURT ORDER DETERMINING SUCCESSION TO PROPERTY §§ 13151, 13152, The gross value of the decedent's real and personal property in California, excluding the property described in Probate Code section 13050, must not exceed: d. AFFIDAVIT FOR SUCCESSION TO REAL PROPERTY OF SMALL VALUE § 13200 The gross value of all real property in the decedent's estate located in California,		
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§ 13200 The gross value of all real property in the decedent's estate located in California,	\$ 166,250	\$ 184,5
excluding the real property described in Probate Code section 13050, must not exceed:	\$ 55,425	\$ 61,5
e. AFFIDAVIT FOR COLLECTION OF COMPENSATION OWED TO DECEASED SPOUSE		
§§ 13600, 13601 Net salary or other compensation owed, in aggregate, by one or more employers for personal services of the deceased spouse, must not exceed: (This limit does not apply if the decedent was a firefighter or peace officer described in Government Code section 22820(a).)	\$ 16,625	\$ 18,4
NOTICE		
If the decedent died on or after April 1, 2022, this form must be attached to		

an affidavit or declaration furnished under Probate Code section 13101;

a Petition to Determine Succession to Real Property (form DE-310) filed under Probate Code section 13151;

an Affidavit re: Real Property of Small Value (form DE-305) filed under Probate Code section 13200; or

an affidavit or declaration furnished under Probate Code section 13601.

Form Adopted for Mandatory Use Judicial Council of California DE-300 [New April 1, 2022] MAXIMUM VALUES FOR SMALL ESTATE SET-ASIDE & DISPOSITION OF ESTATE WITHOUT ADMINISTRATION

Page 1 of 1 Probate Code, §§ 890, 6802, 6809, 13050, 13100–13101, 13151–13154, 13200, 13600–13601 New Probate Code §890 Values Effective April 1,2025 (will be published April 28,2025)

- Increase effective April 1, 2025, and continue to adjust every 3years on April 1st.
- New Small Estate Exemption: \$ (Anticipated will be Approximately ~ \$200,000+)
- Be sure to always attach a copy of the Judicial Council form DE-300 to any 13100 Declaration (along with a certified death certificate)
- New DE-300 form will be available here (expected April 28, 2025):

<u>https://courts.ca.gov/rules-forms/find-your-court-forms</u>

Bill Te xt: sec. 2.

§13101 of the Probate Code is amended to read:

Red is removed text Blue is added text

Continued on next slide.

13101. Furnishing affidavit or declaration

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

(1) The decedent's name.

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

(3) "At least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the decedent's death certificate attached to this affidavit or declaration."

(4) Either of the following, as appropriate:

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

(B) "The decedent's personal representative has consented in writing to the payment, transfer, or delivery to the affiant or declarant of the property described in the affidavit or declaration."

(5) "The current gross fair market value of the decedent's real and personal property in California, excluding the property described in Section 13050 of the California Probate Code, Code and any property included in a petition filed under Section 13151 of the California Probate Code, does not exceed [Insert dollar amount specified in subdivision (g) of Section 13101 of the California Probate Code]."

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

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

(8) Either of the following, as appropriate:

(A) "The affiant or declarant is the successor of the decedent (as defined in Section 13006 of the California Probate Code) to the decedent's interest in the described property."

(B) "The affiant or declarant is authorized under Section 13051 of the California Probate Code to act on behalf of the successor of the decedent (as defined in Section 13006 of the California Probate Code) with respect to the decedent's interest in the described property."

(9) "No other person has a superior right to the interest of the decedent in the described property."

(10) "The affiant or declarant requests that the described property be paid, delivered, or transferred to the affiant or declarant."

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

Bill Te xt: SEC. 2.

§13101 of the Probate Code is amended to read:

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Continued from previous slide.

13101. Furnishing affidavit or declaration

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

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

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

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

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

(g) (1) If the decedent dies prior to April 1, 2022, the dollar amount for paragraph (5) of subdivision (a) is one hundred sixty-six thousand two hundred fifty dollars (\$166,250).

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

What Changes to §13101 Do

- Exempts the value of a primary residence (as long as you are filing a §13151 Petition) from the calculation for the value of the estate for the small estate exemption
- You can still use a 13100 Declaration or Affidavit to collect other property (besides the primary residence) but be sure to use new language provided in statute & <u>include new DE-300 and Death Certificate as attachments</u>
- Be sure to UPDATE ANY 13100 DECLARATIONS with new language

Therefore, you can use a §13151 Petition for the primary residence (if criteria are met)+ the §13050 exclusions + collect property using a §13100 Declaration to administer a fairly sizable estate and avoid probate

Bill Te xt: sec. 3.

§13150 of the Probate Code is amended to read:

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13150. When procedure may be used

The procedure provided by this chapter may be used only if one of the following requirements is satisfied:

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

(b) (1) The decedent's personal representative consents in writing to use of the procedure provided by this chapter to determine that real property of the decedent that was the decedent's primary residence is property passing to the petitioners.

(2) For purposes of this chapter, "primary residence" is not limited to the decedent's residence at the time of their death.

What Changes to §13150 Do

- Limits applicability or scope of a Petition under Section 13151 to the decedent's primary residence in California
- <u>No longer provides a petition procedure for succession to other real</u> <u>property and personal property</u>
- Provides a clarification of definition of primary residence: Does not have to be the Decedent's residence at the time of their death (which may be elsewhere for a variety of reasons)
 - Important because may not match death certificate

BillTe xt: sec. 4.

§13151 of the Probate Code is amended to read:

Red is removed text Blue is added text

13151. Petition for court order determining succession to real property

(a) Exclusive of the property described in Section 13050, if *If* a decedent dies leaving real property that was their primary residence in this state and the gross value of the decedent's real and personal property in this state that real property does not exceed seven hundred fifty thousand dollars (\$750,000), as adjusted periodically in accordance with Section 890, and 40 days have elapsed since the death of the decedent, the successor of the decedent to an interest in a particular item of property that is *that* real property, without procuring letters of administration or awaiting the probate of the will, may file a petition in the superior court of the county in which the estate of the decedent may be administered requesting a court order determining that the petitioner has succeeded to that real property. A petition under this chapter may include an additional request that the court make an order determining that the petitioner.

(b) A successor who files a petition pursuant to subdivision (a) shall deliver a notice of the petition to each heir and devisee named in the petition pursuant to paragraph (7) of subdivision (a) of Section 13152 within five business days of filing the petition.

What Changes to §13151 Do

- Limits the property includable in Petitions under Section 13151 to the decedent's primary residence (no longer the decedent's other real <u>and</u> personal property in California)
- Successor(s) of Decedent is proper person(s) to bring Petition (may have multiple petitioners)
 - Definition of Successor of Decedent: See CA Probate Code §13006:

"Successor of the decedent" means:

(a) <u>If the decedent died leaving a will</u>, the sole beneficiary or all of the beneficiaries who succeeded to a particular item of property of the decedent under the decedent's will. For the purposes of this part, a trust is a beneficiary under the decedent's will if the trust succeeds to the particular item of property under the decedent's will.

(b) <u>If the decedent died without a will</u>, the sole person or all of the persons who succeeded to the particular item of property of the decedent under <u>Sections 6401</u> and <u>6402</u> or, if the law of a sister state or foreign nation governs succession to the particular item of property, under the law of the sister state or foreign nation.

What Changes to §13151 Do

- <u>Requires provision of notice to each heir & devisee (trustee, trust beneficiary, including future</u> interests) as provided in Section 13152 within five (5) business days of filing the petition
- Section 13153 Notice of Hearing is required to be given as provided in Section 1220 (i.e., at least 15 days before the hearing, to the personal representative, special notice, etc. Be sure to review all mailing & service rules)
- Important to Determine if a Probate Will be filed, has been filed, or will not be filed
 - Must get Personal Representative's written consent if a probate is or has been filed
- Peculiarly has the effect of allowing the Decedent to have more than "primary residence" but only one such primary residence in California
- First Date may file New Petition: May 12, 2025 (40 days after April 1, 2025)
- Be sure to review these Probate Code Sections & Rules: 13151, 13152, 13153, 1220, 1215, 1212, 1250, or other notices imposed by the Court or by Local Rule

<u>Possible Cures for Required Service within</u> <u>five (5) business days of filing the petition</u>

Problem Presented: You do not have file-stamped Petition and Hearing Information and must serve & provide notice within 5 business days of filing

Be sure to indicate expedited filing request when efiling document:

"Message to eFiling Clerk" section of the electronic filing system (when submitting the petition for filing) language along the lines of:

EXPEDITED FILING/PROCESSING REQUIRED subject to PC 13151 5-Day Notice Requirement – Please expedite filing, processing, and return of file-stamped Petition & hearing information

*CCC allows vs. other counties (unknown)

Obtain Waivers of Notice from all persons entitled to notice

Possibly Serve Twice

- Once, serve Petition within 5 days of filing the petition and file a proof of service; and
- Second, once receive file-stamped Petition and hearing information, serve Petition again (at least 15 days prior to hearing), along with a DE-120 (Notice of Hearing); file proof of service.

Unknown if this will satisfy all Court(s)

File in Person: Do not file electronically, file in person (if allowed in county)

BillTe xt: SEC. 5.

§13152 of the Probate Code is amended to read:

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13152. Contents of petition; Inventory and appraisal

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

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

(2) The gross value of the decedent's real and personal property real property that was the decedent's primary residence in this state, excluding the property described in Section 13050, as shown by the inventory and appraisal attached to the petition, does not exceed the dollar amount specified in subdivision (f).

(3) A description of the particular item of real property in this state that the petitioner alleges is property of the decedent passing to the petitioner, and a description of the personal property that the petitioner alleges is property of the decedent passing to the petitioner if the requested order also is to include a determination that the described personal property is property passing to the petitioner. *Petitioner and the facts upon which the petitioner bases the allegation that the described real property was the decedent's primary residence.*

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

(5) Either of the following, as appropriate:

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

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

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

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

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

Bill Te xt: sec. 5.

§13152 of the Probate Code is amended to read:

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Continued from previous slide.

13152. Contents of petition; Inventory and appraisal

(b) An inventory and appraisal in the form set forth in Section 8802 of the decedent's real and personal property in this state, excluding the property described in Section 13050, real property that was the decedent's primary residence in this state shall be attached to the petition. The appraisal shall be made by a probate referee selected by the petitioner from those probate referees appointed by the Controller under Section 400 to appraise property in the county where the real property is located. The appraisal shall be made as provided in Part 3 (commencing with Section 8800) of Division 7.

(c) If the petitioner bases the petitioner's claim to the described property upon the will of the decedent, a copy of the will shall be attached to the petition.

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

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

(f) (1) If the decedent dies prior to April 1, 2022, the dollar amount for paragraph (2) of subdivision (a) is one hundred sixty-six thousand two hundred fifty dollars (\$166,250).

(2) If the decedent dies on or after April 1, 2022, *through March 31, 2025,* the dollar amount for paragraph (2) of subdivision (a) is the adjusted dollar amount, published in accordance with subdivision (c) of Section 890, in effect on the date of the decedent's death.

(3) If the decedent dies on or after April 1, 2025, through March 31, 2028, the dollar amount for paragraph (2) of subdivision (a) is seven hundred fifty thousand dollars (\$750,000).

(4) If the decedent dies on or after April 1, 2028, the dollar amount for paragraph (2) of subdivision (a) is the adjusted dollar amount, published in accordance with subdivision (c) of Section 890, in effect on the date of the decedent's death.

What Changes to §13152 Do

- §13151 Petitions now limited in scope to only apply to the decedent's primary residence
- §13152(a)(2) and 13152(f) make clear that the petition procedure to succeed to the decedent's primary residence in California applies regardless of the decedent's date of death, however the maximum value is different depending on date of death:
 - For Decedents who died before 4/1/22, primary residence valued up to \$166,250;
 - For Decedents who died on or after 4/1/22 but before 4/1/25, primary residence valued up to \$184,500;
 - For Decedents who died on or after 4/1/25 but before 4/1/28, primary residence valued up to \$750,000; and
 - For Decedents who died on or after 4/1/28 -to be adjusted every 3 years for inflation.

What Changes to §13152 Do

- Procedural Note: <u>Need to first obtain an I & A from a Probate Referee, with a value</u> not exceeding the applicable value as of date of death, and attach to Petition
- In Petition: Must allege facts in a verified petition, including that you are in the proper county, you have the correct successor(s) of the decedent, and that the described property is the decedent's primary residence, no probate proceeding or have consent of personal rep, persons identified in statute, correct §890 value at date of death (follow the statute, much like a 13100 Declaration)
- Make sure you include sufficient facts for the findings that the Court must determine in order to issue an Order pursuant to Section 13154

What Changes to §13152 Do

- Judicial Council Expected to Release New Forms April 28, 2025
- Here is the link to the proposed/draft forms (DE-310 Petition to Determine Succession to Primary Residence in California and Order Determining Succession to Primary Residence in California):

https://courts.ca.gov/system/files/itc/w25-10.pdf

- Proposed forms will be helpful as a reference tool because you can note the highlighted sections that follow the legislative changes
- Always check for the most recent form and applicable §890 values before filing with Court
- Until proposed form officially adopted for use by the Judicial Council, an attorney drafted petition and order will be required -be sure to follow the statutes when drafting
- Proposed Form will be adopted for Mandatory Use (so will no longer be able to use attorney drafted petition and order)

Old DE-310 Petition to Determine Succession to Real Property

- Old Mandatory Judicial Council Form
- Allowed for addition of Personal Property (not allowed after 4/1/25)

• The new form is expected to be released by the Judicial Council on April 28, 2025

• Until then have to draft own petition(s)

ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NO.:			DE-31
NAME:	STATE BAR NO		FOR COURT US	EONLY
FIRM NAME:				
STREET ADDRESS:				
CITY:	STATE:	ZIP CODE:		
TELEPHONE NO.:	FAX NO.:	2.1 0002.		
EMAIL ADDRESS:				
ATTORNEY FOR (name):				
SUPERIOR COURT OF CALIFORNIA, CO STREET ADDRESS:	UNTY OF			
MAILING ADDRESS:				
CITY AND ZIP CODE:				
BRANCH NAME:				
ESTATE OF (name):			CASE NUMBER:	
		DEC	EDENT	
			HEARING DATE AND TIME:	DEPT.:
		REAL PROPERTY		
	d Personal Property			
an	d Personal Property aiming an interest):	and personal property	described in item 11 is prop	erty passing to
Petitioner (name of each person cla requests a determination that the r petitioner.	d Personal Property aiming an interest):		described in item 11 is prop	erty passing to
An Petitioner (name of each person cla requests a determination that the r	d Personal Property aiming an interest):		described in item 11 is prop	erty passing to
Petitioner (name of each person cla requests a determination that the r petitioner. Decedent (name):	d Personal Property aiming an interest): real property	and personal property		erty passing to
An Petitioner (name of each person cla requests a determination that the r petitioner. Decedent (name): a. Date of death: b. Place of death (city and state of	d Personal Property aiming an interest): eal property : r, if outside the United	and personal property States, city and countr		erty passing to
an etitioner (name of each person cla requests a determination that the r petitioner. Decedent (name): a. Date of death: b. Place of death (city and state or At least 40 days have passed	d Personal Property aiming an interest): eal property r, if outside the United since the decedent's	and personal property States, city and countr death.		erty passing to
an etitioner (name of each person cla requests a determination that the r petitioner. Decedent (name): a. Date of death: b. Place of death (city and state or aA t least 40 days have passed aDecedent was a resident of	d Personal Property aiming an interest): eal property : r, if outside the United since the decedent's of this county at the tir	and personal property States, city and countr death. ne of death.		
an etitioner (name of each person cla requests a determination that the r petitioner. Decedent (name): a. Date of death: b. Place of death (city and state or a	d Personal Property aiming an interest): eal property r, if outside the United i since the decedent's of this county at the timent of California at the	and personal property States, city and count death. ne of death. time of death. Decede	y):	punty.
an etitioner (name of each person cla requests a determination that the r petitioner. Decedent (name): a. Date of death: b. Place of death (city and state or At least 40 days have passed a. Decedent was a resident b. Decedent was not a reside b. Decedent died intestate (wi 6. a. No proceeding for the adm	d Personal Property aiming an interest): eal property : r, if outside the United since the decedent's of this county at the time thout a will) terministration of deceder sentative's consent to	and personal property States, city and countri death. ne of death. time of death. Decede state (with a will), and a ut's estate is being con	γ): ant died owning property in this co	punty. ttachment 5 or 12a California.

t's interest in real and personal property in California property described in Probate Code section 13050-as shown by the attached inventory and appraisal did not exceed (check one). \$166,250 (decedent died before April 1, 2022).

(Prepare and attach as Attachment 8 an inventory and appraisal of all California property in the estate. (Use Judicial Court	ncil forms
DE-160 and DE-161.) A probate referee appointed for the county named above must appraise all real property and all per	rsonal
property other than cash or its equivalent. See Probate Code, §§ 8901, 8902.)	

9. a.	Decedent is survived by (check items (1) or (2), and (3) or (4), and (5) or (6), and (7) or (8)):
	(1) spouse
	(2) no spouse, as follows: (a) divorced or never married (b) spouse deceased
	(3) registered domestic partner
	(4) no registered domestic partner (See Family Code, § 297.5(c); Probate Code, §§ 37(b), 6401(c), and 6402.)
	(5) child, as follows: (a) natural or adopted (b) natural adopted by a third party
	(6) no child
	(7) issue of a predeceased child
	(8) no issue of a predeceased child
b.	Decedent is is to survived by a stepchild or foster child or children who would have been adopted by decedent if a legal barrier had not prevented adoption. (See Probate Code, § 6454.)
	Page 1 of
Form Add	protect for Mandatory Lise Probate Code, §6 13151, 1315

Judicial Council of California PETITION TO DETERMINE SUCCESSION TO REAL PROPERTY DE-310 [Rev. January 1, 2023

Page 1 of 2

Proposed DE-310:

Petition to Determine Succession to Primary Residence in California

Page 1 of 2

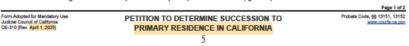
ATTORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NO .:			FOR COURT USE O		
NAME				POR COURT USE O	NLY	
FIRM NAME:						
STREET ADDRESS:						
CITY:	STATE:	ZIP CODE:				
TELEPHONE NO .:	FAX NO.:			DRAFT 110	624	
EMAIL ADDRESS:				Diddi i iiooli		
ATTORNEY FOR (name):				Not approved by the Judicial Council		
ESTATE OF (name):				CASE NUMBER:		
			DECEDENT			
PETITION TO DET PRIMARY RESI	ERMINE SUCCES			HEARING DATE AND TIME:	DEPT.	
1. Petitioner (name of each person clai	ming an interest):			-		
requests a determination that the re property passing to petitioner.	al property described	in item 11 was	the decedent	s primary residence in Califo	rnia and is	

- 2. Decedent (name):
- a. Date of death:
- b. Place of death (city and state or, if outside the United States, city and country):
- At least 40 days have passed since the decedent's death.
- 4. a. Decedent was a resident of this county at the time of death. Decedent was not a resident of California at the time of death. Decedent died owning property in this county. b.
- 5. Decedent died intestate (without a will) testate (with a will), and a copy of the will is attached as Attachment 5 or 12a.
- 6. a. No proceeding for the administration of decedent's estate is being conducted or has been conducted in California.
- b. Decedent's personal representative's consent to use the procedure provided by Probate Code section 13150 et seq. is attached as Attachment 6b.
- 7. Proceedings for the administration of decedent's estate in another jurisdiction
- a. have not been commenced.
- b. have been commenced and completed. (Specify state, county, court, and case number):
- 8. The gross value, at the time of decedent's death, of decedent's interest in the real property described in item 11, as shown by the attached appraisal, did not exceed (check one):

 - a. \$166,250 (decedent died before April 1, 2022). 5184,500 (decedent died on or after April 1, 2022, and before April 1, 2025. Form DE-300 is attached as required by law). \$750,000 (decedent died on or after April 1, 2025, and before April 1, 2028. Form DE-300 is attached as required by law).
- (Prepare and attach as Attachment 8 an appraisal of the property described in item 11. (Use Judicial Council forms DE-160 and DE-161.) A probate referee appointed for the county named above must perform the appraisal. See Probate Code, §§ 8901, 8902.)
- 9. a. Decedent is survived by (check items (1) or (2), and (3) or (4), and (5) or (6), and (7) or (8));
 - spouse
 - (2) no spouse, as follows: (a) divorced or never married (b) spouse deceased (3) registered domestic partner

 - no registered domestic partner (See Family Code, § 297.5(c); Probate Code, §§ 37(b), 6401(c), and 6402.) (4)

 - (8) no issue of a predeceased child
- b. Decedent is is not survived by a stepchild or foster child or children who would have been adopted by decedent if a legal barrier had not prevented adoption. (See Probate Code, § 6454.)



Proposed DE-310:

Petition to Determine Succession to Primary Residence in California

Page 2 of 2

ESTATE			DE-31
	OF (name):		CASE NUMBER:
		DECEDENT	
10] Decedent is survived by (complete if decedent is s Probate Code, § 37, but no issue (only a or b appl Code, § 37, and no issue. Check only the first box	ly); or (2) no spouse or register	
a. b. c.	a parent or parents who are listed in item 14. a sibling, or issue of a deceased sibling, all of other persons who might be entitled to inherit p no known next of kin.		ve a will, all of whom are listed in item 14.
d. [
(2) a in Ca	chment 11 contains (1) the legal description and the a statement of decedent's interest in the property, int alifornia; and (3) if any petitioner's claim to the prope s that show whether the property was community, se	cluding facts that show that the erty is based on succession un	property was decedent's primary residence der Probate Code sections 6401 and 6402,
in the	h petitioner is a successor of the decedent (as defin e real property described in item 11 because each p	petitioner is	
а. [(will) a beneficiary who succeeded to that prop 5 or 12a. 	perty under decedent's will, and	d a copy of the will is attached as Attachment
b.	(no will) a person who succeeded to that prop	erty under Probate Code secti	ons 6401 and 6402.
13. The	interest <mark>of</mark> each petitioner in the property described	in item 11 is stated in a	Attachment 13 is as follows (specify):
petiti	names, relationships to decedent, ages, and reside ioner, of (1) all persons named or checked in items erty in the absence of a will; and (3) all persons des	1, 9, and 10; (2) all other perso	ons who may be entitled to inherit decedent's
	names and addresses of all executors named in de	-	
	No executor is named. There is no will.		
16	Petitioner is the trustee of a trust designated in de interested in the trust, as determined in cases of fu in Attachment 16.		
17	Decedent's estate was under a guardiansi addresses of all persons serving as guardian or co		at decedent's death. The names and low are listed in Attachment 17.
	nber of pages attached:		
18. Num			
	(TYPE OR PRINT NAME OF ATTORNEY)	<u> </u>	(SIGNATURE OF ATTORNEY)*
Date:		e of California that the forenoi	
Date:	(TYPE OR PRINT NAME OF ATTORNEY) e under penalty of perjury under the laws of the Stat	e of California that the foregoin	
Date:		le of California that the foregoir	
Date:		e of California that the foregoin	
Date:	e under penalty of perjury under the laws of the Stat	le of California that the foregoin	ig is true and correct.
Date:	e under penalty of perjury under the laws of the Stat	<u> </u>	(BIGNATURE OF PETITIONER)*
Date: I declare Date:	e under penalty of perjury under the laws of the Stat		(BIGNATURE OF PETITIONER)* (BIGNATURE OF PETITIONER)* OF ADDITIONAL PETITIONERS ATTACHED

Bill Te xt:

§13154 of the Probate Code is amended to read:

Red is removed text Blue is added text

13154. Court order

(a) If the court makes the determinations required under subdivision (b), the court shall issue an order determining (1) that real property, that the real property that was the decedent's primary residence, to be described in the order, is property passing to the petitioners and the specific property interest of each petitioner in the described property and (2) if the petition so requests, that personal property, to be described in the order, of the decedent is property passing to the petitioners and the specific property interest of each petitioner. In the order, of the decedent is property passing to the petitioners and the specific property interest of each petitioner.

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

(1) The gross value of the decedent's real and personal property in this state, excluding the property described in Section 13050, real property that was the decedent's primary residence in this state does not exceed seven hundred fifty thousand dollars (\$750,000), as adjusted periodically in accordance with Section 890.

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

(3) Whichever of the following is appropriate:

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

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

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

(c) If the petition has attached an inventory and appraisal that satisfies the requirements of subdivision (b) of Section 13152, the determination required by paragraph (1) of subdivision (b) of this section shall be made on the basis of the verified petition and the attached inventory and appraisal, unless evidence is offered by a person opposing the petition that the gross value of the real property that was the decedent's primary residence in this state exceeds seven hundred fifty thousand dollars (\$750,000), as adjusted periodically in accordance with Section 890.

What Changes to §13154 Do

- Clarifies that the Order <u>only</u> covers <u>real property</u> that was the decedent's <u>primary</u> <u>residence</u>, no longer includes personal property or other real property
- For attorney-drafted petitions, be sure to follow this code section when developing your "prayer" contained within your 13151 Petition and Proposed Order
- You will have to record the Order, keep in mind when preparing:

1) Prayer;

2) Proposed Order (including legal description); and

3) Cover sheet for recording.

Proposed DE-315:

Order Determining Succession to Primary Residence in California

Page 1 of 1

DE-315		
ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO .:		
After recording, return to: NAME:		
NAME: FIRM NAME:		
FIRM NAME: STREET ADDRESS:		
CITY, STATE, ZIP CODE:		DRAFT 110624
TELEPHONE NO.: FAX NO.:		
TELEPHONE NO.: PAX NO.: EMAIL ADDRESS:	N	ot approved by
	the	Judicial Council
ATTORNEY FOR (name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE: BRANCH NAME:		
BRANCH NAME:	FC	OR RECORDER'S USE ONLY
ESTATE OF (name):		CASE NUMBER:
	DECEDENT	
ORDER DETERMINING SUCCESSIO	N TO	FOR COURT USE ONLY
PRIMARY RESIDENCE IN CALIFOR	RNIA	
1. Date of hearing: Time:		
Dept/Room:		
Judicial Officer (name):		
THE COURT FINDS		
2. Notice has been given as required by law.		
Decedent died on (date):		
a a resident of this county.		
 a nonresident of California who owned property in 		
c. intestate (without a will) testate (with a will)).	
At least 40 days have passed since the decedent's death.		
5. a. No proceeding for the administration of the decede	ent's estate is now being or	has been conducted in California.
 Decedent's personal representative has consented 	d in writing to use the proce	dure in Probate Code section 13150 et seq.
6. The gross value of the real property described in item 9a do	es not exceed	
\$166,250 (death before April 1, 2022).		
\$184,500 (death or or after April 1, 2022, and before).	April 1 2025)	
\$750,000 (death on or after April 1, 2025).	prin 1, 2020).	
 Each petitioner is a successor of the decedent (as defined in 	Probate Code costion 120	008) to the decodent's interact in the real
property described in item 9a because each petitioner is (ch		to the decedent's interest in the real
 a. (will) a beneficiary who succeeded to the property 		
 a. (will) a beneficiary who succeeded to the property b. (no will) a person who succeeded to the property 		oc 6401 and 6402
The real property described in item 9a was the decedent's p	rimary residence in the sta	te of California.
THE COURT FURTHER FINDS AND ORDERS		
		and the second second second second in the
 a. The real property described in Attachment 9a (Give legal description of property, including Assessor) 		passes to each petitioner as described in b.
(One regar description of property, including Assessor	s Parcer Number).	
b. Each potitioner's name and specific interact is the surrout	where is stated in Atta	when ont the list as follows (see - 2)
 Each petitioner's name and specific interest in the prope 	is stated in Atta	is as follows (specify):
 Other orders are stated in Attachment 10. 		
11. Number of pages attached:		
Date:		
		JUDICIAL OFFICER
	SIGNATURE FOLLO	OWS LAST ATTACHMENT Page 1 of 1
Form Adopted for Mandatory Use ORDER DETERN	INING SUCCESSION T	O Probate Code, § 13154
Judicial Council of California DE-315 [Rev. April 1, 2025] PRIMARY RESI	DENCE IN CALIFORNIA	www.courts.cs.pov
	7	

BillTe xt:

§13158 of the Probate Code is repealed.

Red is removed text Blue is added text

13158. Compliance with Chapter 3

Nothing in this chapter excuses compliance with Chapter 3 (commencing with Section 13100) by the holder of the decedent's personal property if an affidavit or declaration is furnished as provided in that chapter.

What Changes to §13158 Do

- Prior §13151 applied to both real and personal property
- New § 13151 Petitions only apply to the decedent's primary residence personal property and other real property must pass another way (see §§ 13050, 13100, 13200, etc.)

Questions?

Walkthrough of Legislative Changes

UNIQUE ISSUES PRESENTED BYNEW LAW

Summary AB 2016: For Administrations and Estate Planning

- You <u>may but are not required to</u> bring a new §13151 Petition to transfer title to the successor(s) of decedent for a decedent's <u>primary residence</u> with a gross value that does not exceed the value as set by §890, as adjusted
- For deaths on or after April 1, 2025, you can use a §13151 petition for the primary residence up to \$750,000, as adjusted + the §13050 exclusions + collect property using a §13100 Declaration to administer or plan an estate up to §890 value (for deaths after 4/1/2025 = \$______ (Anticipated will be Approximately ~\$200,000+)
- Fear Primary Residence will be pulled into a subsequently or simultaneously filed probate, if there are any objections, or petition is denied

Creditor's Rights

Remember CA Probate Code §13156 & CA Civ Pro Code §366.2

- Petitioner who receives decedent's property pursuant to a §13154 Order is personally liable for the <u>unsecured debts</u> of the decedent
- Personal liability does not exceed FMV at date of death, less any liens or encumbrances on the property
- Does not permit enforcement of a claim that is barred under §9000 et seq (formal probate creditors process)
- Evaluate debts of decedent (tax, unsecured creditors, government entities) and relevant statutes of limitations before determining best procedure to utilize

Determining Primary Residence

 Did the Decedent have a Homeowner's Exemption (for property tax) applied to the residence? Example, Alameda County BOE-266:

$\frac{https://www.capropeforms.org/forms/alamed}{a/BOE-266/pdf/2025}$

- IRS: Most important factor is where a person spends the <u>most</u> time
- Look to address where:
 - Registered to Vote
 - Use to file Federal & State Tax returns
 - Driver's License & Car Registration
 - $^\circ\,$ Address on file with USPS

- May look at other factors, such as where they worked, where family members live, where they are a club or organization member, etc.
- Death Certificate lists "Usual Residence" (per informant)
- Can get tricky if Decedent has more than one home

Questions?

Unique Issues Presented by New Law

COUNTY-BY-COUNTY HOUSING STATISTICS

Existing Single-Family Homes & Condo/Townhomes Median Home Price by Region for February 2025

	Existing Single Family Residence	Condo / Townhomes
All CA	\$829,060	\$675,000
LA Metro	\$824,900	\$667,750
Central Coast	\$1,039,500	\$840,000
Central Valley	\$495,000	\$325,000
Far North	\$386,000	\$259,500
Inland Empire	\$611,300	\$525,000
S.F. Bay Area	\$1,250,000	\$830,000
SoCal	\$866,400	\$665,000

LA Metro is a 5-county region that includes Los Angeles County, Orange County, Riverside County, San Bernardino County, and Ventura County

Inland Empire includes Riverside County and San Bernardino County

S.F. Bay Area has been redefined to include the following counties: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma

Existing Single-Family Homes – Median Home Price by County (Alphabetic Order by County) for February 2025

Alameda	Amador	Butte	Calaveras	Contra-Costa	Del Norte	El Dorado	Fresno	Glenn	Humboldt
\$1,300,000	\$460,000	\$449,000	\$415,000	\$841,000	\$352,000	\$677,000	\$442,850	\$335,000	\$431,000
Imperial	Kern	Kings	Lake	Lassen	Los Angeles	Madera	Marin	Mariposa	Mendocino
\$394,000	\$409,900	\$375,000	\$352,500	\$284,500	\$852,190	\$425,000	\$1,675,000	\$410,000	\$535,500
Merced	Mono	Monterey	Napa	Nevada	Orange	Placer	Plumas	Riverside	Sacramento
\$414,500	\$1,350,000	\$900,000	\$1,018,500	\$512,950	\$1,465,500	\$649,000	\$359,500	\$646,840	\$550,000
San Benito	San Bernardino	San Diego	San Francisco	San Joaquin	San Luis Obispo	San Mateo	Santa Barbara	Santa Clara	Santa Cruz
\$780,000	\$490,000	\$1,040,000	\$1,600,000	\$540,000	\$967,500	\$2,200,000	\$1,515,000	\$2,000,000	\$1,260,000
Shasta	Siskiyou	Solano	Sonoma	Stanislaus	Sutter	Tehama	Trinity	Tulare	Tuolumne
\$386,000	\$285,000	\$600,000	\$852,560	\$460,000	\$417,500	\$360,000	\$115,000	\$380,000	\$381,000
\$386,000	\$285,000	\$600,000	\$852,560	\$460,000	\$417,500	\$360,000	\$115,000	\$380,000	\$

Ventura

\$969,500

Yolo

\$633,500

Yuba

\$459,000

The <u>median</u> of a set of numbers is the value separating the higher half from the lower half of a data sample, a population, or a probability distribution. One half of the data set falls below the median and one half above the median.

Condo / Townhome Median Home Price by County (Alphabetic Order by County) for February 2025 (unless otherwise indicated)

				1		i			1
Alameda	Amador	Butte	Calaveras	Contra Costa	Del Norte	El Dorado	Fresno	Glenn	Humboldt
\$700,000	\$470,000	\$240,500	\$145,000	\$528,500	\$325,000	\$479,000	\$229,900	NA	\$240,000
									Jan 2024
Imperial	Kern	Kings	Lake	Lassen	Los Angeles	Madera	Marin	Mariposa	Mendocino
\$205,000	\$229,000	NA	\$180,000	NA	\$640,250	\$237,500	\$817,500	\$625,000	\$264,500
			Jan 2025					Jan 2024	
Merced	Mono	Monterey	Napa	Nevada	Orange	Placer	Plumas	Riverside	Sacramento
\$327,000	NA	\$840,000	\$1,459,500	\$250,000	\$828,000	\$440,000	\$475,000	\$505,000	\$355,000
San Benito	San Bernardino	San Diego	San Francisco	San Joaquin	San Luis Obispo	San Mateo	Santa Barbara	Santa Clara	Santa Cruz
\$605,000	\$515,000	\$658,000	\$1,100,000	\$303,000	\$569,500	\$999,890	\$1,165,000	\$1,150,000	\$890,000
Shasta	Siskiyou	Solano	Sonoma	Stanislaus	Sutter	Tehama	Trinity	Tulare	Tuolumne
\$245,000.00	\$72,000.00	\$349,500.00	\$489,500.00	\$290,000.00	\$410,000.00	NA	NA	\$299,000.00	NA
Jan 2025									
Ventura	Yolo	Yuba		• •	• •	-	ourte sy of Andre w		
\$642,250.00	\$515,000.00	\$212,500.00	Resider				atorship Real Estat	· · ·	3031),

Residential, Commercial, Probate, Estate, Trust & Conservatorship Real Estate Broker (#01368031), California Professional Fiduciary Licensee #544, Probate Agent Real Estate Services, Berkshire Hathaway. Data not independently verified, for illustrative and educational purposes only.

Questions?

County-by-County Housing Statistics



COMMON PROCEDURES TO ADMINISTER REAL PROPERTY IN CALIFORNIA

Procedures to Administer Real Property After Death

- <u>Joint Tenancy, Community Property</u> <u>with Right of Survivorship</u>
 - Record Affidavit of Death of Joint Tenant or of Surviving Spouse/Domestic Partner
 - <u>https://saclaw.org/wp-content/uploads/2023/04/form-affidavit-death-of-joint-tenant.pdf</u>

 - Works until you have one co-owner left, then you need an alternative procedure
 - Works for properties other than primary residence

- <u>Transfer on Death Deeds</u>
 - New rules (Effective January 1, 2022) make more difficult/timeconsuming
 - Title often reluctant to issue title for a period of time, especially because there is no Court Order
 - Confirm Original Deed recorded correctly and that all procedures properly followed
 - Applies to parcels with 1-4 residential dwelling units
 - See CA Probate Code §5600 et seq

Procedures to Administer Real Property After Death

• <u>Trusts</u>

- Affidavit of Change of Trustee
- Unless there is a problem/controversy, a private arrangement
- Sometimes require Heggstad/§850/Other Court Orders
- Established procedures in place at title companies and with realtors

• <u>Affidavit for Succession to Real Property of</u> <u>Small Value</u>

- See CA Probate Code §13200
- Also requires and Inventory & Appraisal
- Values adjusted (see DE-300)
- No Hearing required, processed by clerk

• Formal Probate

- Default if no other procedure available or if there is no planning in place (such as after the death of the last co-owners when there was a previous right of survivorship)
- See Probate Code §7000 et seq
- May have IAEA Powers or Limited IAEA Powers for sales
- Procedures for creditors (secured & unsecured)

<u>Procedures to Administer Real Property</u> <u>After Death</u>

• <u>§13151 Petition</u>

- Requires Court Petition
- Narrowly applies to Primary Residence
- Narrowly applies to values up to \$750,000 (as adjusted)
- Can be used for single family residences or condos/townhomes
 - What about multi-unit dwelling where one of the units was the Decedent's primary residence?

- Can be used for <u>partial interests</u> in real property (such as if co-owners owned as tenants-in-common, or had a partial interest (valued above the Affidavit procedure to amount)
- Can be used when you have a pourover Will to a Trust and for some reason (such as a refinance, second loan, or move) the decedent's primary residence was not in trust (in lieu of §850 Petition)

Questions? Common Procedures to Administer Real Property in California

OVERVIEW OF §13151 PROCESS

With Hypothetical

<u>Hypothetical</u>:

You, an attorney, are presented with the following facts by your staff (who heard the whole story from Becky):

Wilma is a widow with her husband, Harry, having predeceased her after a long battle with cancer. They were long-time residents of Martinez where they were active in the local bocce league. Wilma and Harry have two adult children, Becky and Charlie. When Harry died, everything went to Wilma because all their assets were held jointly, and Wilma was the beneficiary of Harry's retirement. No probate was needed.

Wilma continued to live on her own until she started developing signs of dementia. Beckywas going through a divorce and so she moved back in with Wilma. Beckytalked to Charlie and they both agreed that Wilma could no longer live on her own. Charlie was living in Southern California so when he and Becky suggested to Wilma that she move to assisted living, Wilma added Becky to her checking and savings account. Wilma's pension, social security and her inherited retirement from Harry were enough to cover her assisted living expenses. Wilma moved to an assisted living facility in Rocklin on June 1,2023. Rocklin is in Placer County

<u>Hypothetical</u> <u>Continued</u>:

Becky continued to live at the house. While Becky and Charlie knew it would be important for Wilma to have an estate plan, including a trust, Becky heard from a neighbor that her mom didn't need a trust because there was a new law that allowed the house to pass to Becky without a probate. By this point, Wilma was already having difficulty remembering Becky and Charlie's names, so they decided to deal with things later.

When Wilma died on April 12,2025, her 3 BR/1BA home in Martinezwas still in her name. There was no mortgage on the house and no other debt. Zillow said the value of the home was \$725,000. When Becky was looking through Wilma's papers, she discovered the following assets all in Wilma's name:

Stock certificates for 50 shares of Chevron stock worth about \$7,200 Life insurance policy without a beneficiary for \$25,000



Evaluate Facts

*Date of Death for proper value under §890 *Proper County for Venue *<u>One Parcel</u> Real Property *Lodge Original Will and obtain Lodged Copy *Evaluate Debts

Evaluate Facts

- Wilma's Date of Death is April 12, 2025, as evidenced by her Placer County Death Certificate
- Wilma's home is located in Contra Costa County (although Wilma died while residing in assisted living in Placer County) – Proper Venue is Contra Costa County
- Wilma owned one home at her death where she resided for many years
- No need to lodge a Will because Wilma did not have any estate planning documents
- Luckily, Wilma didn't owe any debts at her death

Evaluate Real Property

*Like ly worth less than \$750,000? *How does title currently stand? *What was the Decedent's interest? *Petitioner's Interest? *Primary residence?



- A commercial website states value is \$725,000. May wish do to further research re: condition, market conditions, etc., and/or get a broker price opinion or appraisal before moving forward
- Review public records, title, or title report:
 - Verify that the Property is in Wilma's name alone, as a single woman, fee simple
 - Petitioners are not on title
- Primary Residence:
 - Confirm Homeowner's Exemption filed
 - Who is payee for property taxes?
 - Where is her driver's license, voting, filing income taxes, etc.

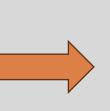
<u>Evaluate Estate</u> <u>Planning</u> <u>Documents or</u> <u>Determine if</u> <u>Intestate</u>

*Determine Successor(s) in Interest *Client(s) proper person(s) to bring Petition Evaluate Estate Planning Documents or Determine if Intestate

- Despite a diligent search of her home, Wilma appears to not have a Will, so Wilma died intestate
- Becky and Charlie are Wilma's intestate heirs
- Becky and Charlie are the successors of the decedent and proper <u>persons</u> to bring petition (jointly)

Determination of Proper Procedure

Based on Review of Initial Facts, determine that §13151 Petition is a proper procedure to be utilized



Determination of Proper Procedure

- You meet with Becky & Charlie and verify all of the facts and you advise them their situation meets the requirements of the new §13151 procedure.
- Becky and Charlie decide to roll the dice and petition jointly under the new §13151
- They sign an hourly legal services agreement, complete with a conflicts advisement due to the joint representation by an attorney

<u>Determine if a</u> <u>Formal Probate</u> <u>will be Required</u> and coordinate with personal representative

(need consent from pers rep if probate already opened)

Determine if a Formal Probate will be <u>Required</u>

- Based on a review of assets subject to probate which total \$32,200 and that Wilma has no debts, Becky and Charlie do not believe a formal probate will be required
 - If above small estate exemption & probate required, may want to include home in probate
- You confirm that no probate proceedings have been opened in CCC or Placer County so there is no personal rep to coordinate with

Request & Obtain Inventory & Appraisal from Probate Referee with Date of Death Value *Imperative that the Legal Description is Accurate



- Request & Obtain Inventory & Appraisal from Probate Referee
- You find a probate referee who works in CCC:

https://www.sco.ca.gov/eo_probate_contact.html

• Submit and obtain an I&A from the probate referee with a date of death value of \$725,000 (the website for once was pretty accurate)

<u>Determine ALL Persons entitled to</u> <u>Notice</u> and obtain last known address for service of notice See § 13152 (a)(7)

Include: Heirs, devisees, guardian of the estate, conservator of the estate, executors of the Will of the Decedent, Trustee (and beneficiaries of Trust if same as petitioner, as well as §15804 – future interests) Determine ALL Persons Entitled to Notice

- Only the heirs Becky & Charlie are entitled to Notice
- They are Petitioners, so no requirement to send notice to Petitioners/selfper PC §1201

<u>Complete Petition</u>: New DE-310 Judicial Council Form (or if form not available, draft petition)

*Attach Will *Verify Legal Description is accurate (and matches I & A) *Pay Particular Attention to Attachment 11: including decedent's interest in property, facts to show that the property was decedent's primary residence in California, and whether the property was community, separate, or quasi-community property

DRAFT 110624 Not approved by the Judicial Counci UPERIOR COURT OF CALIFORNIA, COUNT TATE OF (n PETITION TO DETERMINE SUCCESSION TO PRIMARY RESIDENCE IN CALIFORNI mests a determination that the real property described in item 1 Decedent (name b. Place of death (city and state or, if outside the United States, city and count 3. At least 40 days have passed since the decedent's death. Decedent was a resident of this county at the time of death. Decedent was not a resident of California at the time of death. Decedent died owning property in this count Decedent died intestate (without a will) testate (with a will), and a copy of the will is attached as Attachment 5 or 12a No proceeding for the administration of decedent's estate is being conducted or has been conducted in California vecedent's personal repres ttached as Attachment 6b. ings for the administration of decedent's estate in another jurisdiction have not been commenced. have been commenced and completed. (Specify state, county, court, and case number) ness value, at the time of devertent's death, of devertent's interest in the real monenty described in item 11 as s Sos Vaulue, at the time to decloseries locatin, of decloseries in mers in the real property described in mem 11, as shown by the disprissing (if one stored (riske) non-star) (appraisal, (if one stored (riske) non-1914,500 (declosent died on ora ther April 1, 2022, and before April 1, 2025, Form DE-300 is attached as required by law) \$750,000 (decedent died on or atter April 1, 2025, and before April 1, 2028, Form DE-300 is attached as required by law) are and attach as Attachment 8 an appraisal of the property described in item 11. (Use Judicial Council forms DE-160 and 61.) A probate referee appointed for the county named above must perform the appraisal. See Probate Code, §§ 8901, 8902.) ient is survived by (check items (1) or (2), and (3) or (4), and (5) or (6), and (7) or (8)): spouse no spouse, as follows: (a) divorced or never married (b) spouse deceased registered domestic partner to registered domestic partner (See Family Code 5 297 5(c): Probate Code 55 37(b) 6401(c) and 6402 hild, as follows: (a) natural or adopted (b) natural, adop sue of a predeceased chil is not survived by a stepchild or foster child or children who would not prevented adoption. (See Probate Code, § 6454.) TITION TO DETERMINE SUCCESSION TO RY RESIDENCE IN CALIFORN

Complete Petition

- No Will to Attach
- Confirm title and verify legal description
- Wilma had a 100% fee simple interest held in her sole name as a single person (separate property)
- To be safe, you also have clients sign Waivers of Notice

<u>Prepare & File Real Property</u> <u>Tax forms with County</u> <u>Assessor's Office</u>, including Change of Ownership -Death of Real Property Owner, PCE/GP-GC, Homeowner's Exemption (for Prop 19, if applicable)



- <u>Prepare & File Real Property Tax forms</u> with County Assessor's Office
- Because Becky is a child who has moved into home within one year of death and Wilma has an HOE filed on the property, they can jump through the Prop 19 hoops to obtain the PCE from reassessment
- Draft DoRPO, PCE, and HOE

<u>Review for</u> <u>Procedural Errors</u> or Omissions Before Obtaining Client signatures & Filing with Court

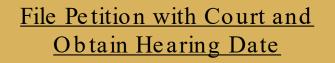
*Old Review Sheet for Prior Version of §13151 Petitions

- You verify everything is correct, I & A attached to Petition
- Clients come into office for signatures on all forms and court filings

CASE NO NAME	. P	<u>155</u>
PETITION	TO DETERMINE SUCCESSION TO REAL PROPERTY -	§13152(a)
	Petition verified by all claimants	§13152(a)
······	Heirs/beneficiaries and their ages, relationships and residences listed on petition to include deceased persons w/dod	§13152(a)
	Names and addresses of executors named in will listed on petition	§13152(a)
	Proof of mailing to heirs and all persons named in will (mailed 15 days prior to hearing)	§13153
	I&A attached to petition	§13152(b)
	Copy of will attached to petition	§13152(c)
	Legal description of real property attached to petition along w/ decedent's interest	§13152(a)
	Proposed order submitted w/legal description of real property	

File Petition with Court (at least 40 days after death), attach Will (if any) and Inventory & Appraisal (Property Tax Certification) and Obtain Hearing Date





- You file the Petition on Tuesday, May 26, 2025 (which is at least 40 days after date of death) and
- Obtain a Hearing Date October 31, 2025

Provide Notice <u>within</u> <u>five business days</u> of filing the Petition (and at least 15 days prior to hearing)

*Take special note for date stamp of electronic filing

Notice of Hearing Form DE-120 https://courts.ca.gov/sites/default/files /courts/default/2024-11/de120.pdf

Provide Notice within five business days If it had been required, attorney mails DE-120 and copy of Petition to: Becky & Charlie no later than Monday, June 2, 2025

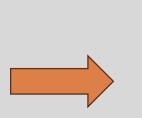
Lodge Proposed Order and Proof of Service with the Court

- Attorney prepares Proposed Order with correct legal description, hearing information, etc.
- Attorney lodges Order with Court (and files Proof of Service)

Check for any Examiner's Notes (file supplemental information as needed/respond to any objections)

Attend Hearing

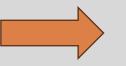
Obtain Order *Must Obtain Certified Order in order to record



<u>Check for any Procedural Errors and Attend</u> <u>Hearing</u>

- You check for any procedural errors/examiner's notes and they are as perfect as always
- Attend the Hearing and receive effusive praise from the Judge pro tem
- Obtain the Order to Determine Succession to Primary Residence in California
- And get two <u>certified</u> copies from the Clerk

Record Certified Order with County Recorder & Serve "Notice of Entry" of Judgment and/or Order with proof of service on all persons entitled to notice



<u>Record Certified Order &</u> <u>Serve Notice of Entry of</u> <u>Judgment</u>

- Record the Certified Order with the County Recorder's Office
- And serve Notice of Entry of Judgment to Charlie & Becky

Close Client File

- Provide the client a complete copy of your file, including Proofs of Service, originals, court filings, and a certified Order
- And a closing letter advising clients to retain originals for future reference

WHAT IFs

- What if Wilma died with her "residence" AND had a Tahoe cabin in California? Both not eligible for 13151
- 2. What if there were multiple APNs?
- 3. What if there was a reverse mortgage on the property? Have to act quickly, may be not appropriate because of the delay
- 4. What if Wilma received Medi-Cal services? At this time, Medi-Cal would not be able to collect against the personal residence because this was not a full probate
- 5. What if Becky believes the house should only go to her? Not appropriate because both most agree.

Questions?

Overview of §13151 Process

ESTATE PLANNING CONSIDERATIONS

Considerations during Estate Planning

The new paradigm is not optimal if the client has any of the following needs or objectives:

- After death, need immediate access to the house or to close a transaction (have to wait 40 days from date of death to file petition and then wait for hearing)
- There is a complex family structure, blended family, contentious family members

If you have reasons why successor(s) in interest cannot have outright ownership of real property/need to have on-going management/trusts, for example, special needs, dependent adults, vulnerable beneficiaries, minors, spendthrifts, tax planning, etc.

Considerations during Estate Planning

- Frequently, clients have a primary objective to avoid Court completely
- Value privacy
- Private control (vs. judicial determination)
- Many clients view court proceedings, even chiefly administrative, as a stressful task and want to avoid placing burden on family

- \circ Court Proceedings cause delay
- \circ Court Proceedings have costs
- May need to hire an attorney due to intricate procedure
- Concerns how title companies will view/inability to issue title insurance
- Reverse mortgages are not reasonably workable with this process
- If you do not leave clear direction, will your successors fight over who is the proper successor of the decedent?

Considerations during Estate Planning

- There is a risk involved if the client later converts a primary residence to a rental, second home, vacant, etc. and does not take further estate planning actions
- If client owns or expects to own more than one parcel of real property needs another method to administer additional parcels
- If client owns land, buildings, etc. this new process does not apply

- Due to appreciation and the schedule for adjusting values (every 3-years) the primary residence's value may exceed the limit at the decedent's date of death
- Always review legal description to verify there is only one parcel, be sure Homeowner's Exemption is filed on that property
- Trusts continue to be the gold standard because they can be individually tailored to meet client needs

Questions?

Estate Planning Considerations



TITLE INSURANCE CONSIDERATIONS

Title Insurance Considerations

- Successor(s) in Interest or purchaser
 of real property will eventually want
 to obtain title insurance
- Title companies are often reluctant to issue title insurance after probate proceedings and often require additional information in the future (i.e., when the successors in interest are obtaining a loan or selling)
- Title Insurers want to reduce the risk associated to their insured

Problem Presented to Title Industry:

- Estimated 20% of the US population (Baby Boomers) will pass away over the next 25 years
- Baby Boomers own about 50% of the real property in the country and have approximately <u>\$20TRILLION</u> in equity
- Majority of Baby Boomers have no estate planning nor show any intention to do so and will rely on probate proceedings to administer estates
- Younger generations relying on future inheritances due to current economic conditions

Uncapped & Unlimited Monetary Liability

- The great wealth transfer will expose title companies to a great deal of risk which they will try to mitigate or risk catastrophic failure of the industry
- Orders from Probate Court transfer real property without underwriting by title companies and without title insurance being issued (always a problem if in chain of title)
- Title Companies are concerned about the risk that decedent's heirs, family members, and even friends and acquaintances represent <u>and</u> marked increase in claims against title companies

- Title Companies have uncapped and unlimited monetary liability associated with the tender of defense obligations included in every title insurance policy issued
 - No matter how frivolous, vexatious, or due to a dispute with or concerning a decedent owning real property
 - Including those policies issued after transfer of real property pursuant to a Probate Court Order

Title Concerns with Probate Orders

- Future review of Probate Court transfers by title companies to mitigate risk begins and largely ends with <u>title company's evaluation of who the parties</u> <u>entitled to notice are/were and whether those parties:</u>
 - Were provided adequate notice (how they were noticed and whether there is proof) and
 - The parties entitled to notice either consent/stipulate to various matters of concern to the title company (e.g., waive appeal rights associated with or stipulate to the Order) or
 - Any period to object or appeal has passed without such objection or appeal being filed.

Possible Delays with Probate Orders

For transfers of real property pursuant to Probate Order(s), Title Companies may not issue title insurance until the applicable period for appeal has lapsed/passed



Period of Risk to Title Companies

- To reduce time to appeal: Serve "Notice of Entry" of Judgment and/or Order with proof of service on all persons entitled to notice for any probate Orders
- See California Rule of Court 8.104 for Time to Appeal (normally 60 or 180 days after entry of judgment or appealable order)

https://courts.ca.gov/cms/rules/index/eight/rule8_104

Rule 8.104. Time to appeal

(a) Normal time

- (1) Unless a statute or rules 8.108, 8.702, or 8.712 provides otherwise, a notice of appeal must be filed on or before the earliest of:
- (A) 60 days after the superior court clerk serves on the party filing the notice of appeal a document entitled "Notice of Entry" of judgment or a filed-endorsed copy of the judgment, showing the date either was served;
- (B) 60 days after the party filing the notice of appeal serves or is served by a party with a document entitled "Notice of Entry" of judgment or a filed-endorsed copy of the judgment, accompanied by proof of service; or

(C) 180 days after entry of judgment.

Risks in All Types of Administrations

This title insurance risk and reluctance to issue title apply to all types of estate administration procedures we have discussed in different ways:

• Joint Tenancy, Community Property with Right of Survivorship

- Title passes according to operation of law due to death and does not require notice
- Easier for Title Companies to review and underwrite, but eventually need another process to transfer ownership when all co-owners deceased

• Transfer on Death Deeds

• Have required notice to be sent under new rules, and because there is not Court Order so there is no period of appeal to limit liability. These are more difficult to later obtain title insurance.

• <u>Trusts</u>

- If there is an Order involved (such as an §850 Petition), must wait for the period of appeal to lapse or provide assurances to title company
- Always retain a complete copy of trust, 16061.7 Notice with Proof of Service, Notice of Proposed Action, accounting, etc.

• <u>Affidavit for Succession to Real Property of</u> <u>Small Value</u>

 Similar to TODD, no Court/Judge has reviewed and there is no period of appeal so there is even more risk to title companies but only real property of very small value can pass this way (see §13200)

• Formal Probate

• Because there is a Probate Order involved must wait for period of appeal to lapse or provide assurances to title company

• <u>§13151 Petition and Order</u>

- Because there is a Probate Order involved must wait for period of appeal to lapse or provide assurances to title (assuming the new orders are appealable)
- <u>Title companies have expressed concerns with the valuation</u> process of the new procedure and would prefer to have a date of death appraisal conducted by a certified appraiser in addition to Inventory & Appraisal

Key Takeaways for Title Insurance

- 1. Be sure to provide notice to everyone entitled to notice and when in doubt, provide notice
- 2. Serve "Notice of Entry" of Judgment and/or Order with proof of service to ensure that the appeal period runs
- 3. Always have clients retain key documents, proofs of service
- 4. There may be a period of time when the real property is not insurable for title and therefore the successor in interest may not be able to sell or obtain a loan

Questions?

Title Insurance Considerations



Bring ing it All Together

• Property Tax: I & A (DE-160) requires the petitioner to certify that R&TCode section 480 has been satisfied by filing a change of ownership statement with the county recorder (but does not require a PCE or HOE to be filed, the public may miss out on valuable property tax savings by missing Prop 19 deadlines)

• Revised DE-310 (Petition to Determine Succession to Real Property) and DE-315 (Order Determining Succession to Real Property) are set to be released by the Judicial Council on 4/28/25 • Many more facts must be alleged under new rules • If not released, may need to craft a petition and follow statutes closely

More Key Points

- In narrow circumstances, new §13151 Petitions may help many Californians avoid formal probate or reduce the costs/delay to those who would have otherwise used a formal probate
- However, it is still a court process/hearing AND not a private administration like many trust administrations
- The value limit of \$750,000 (applicable after 4/1/25, as adjusted) does not apply to all real estate in California (especially many Bay Area localities)
- Does <u>not</u> apply to land, buildings, or other real estate only primary residences

- <u>Estate Planning still Needed</u>: Many people will still need a Will (with testamentary provisions) to nominate an executor, select beneficiaries, etc.
- <u>Public Education Needed</u>: The public may erroneously think that they do not need an estate plan, so educational materials and efforts are needed by the profession (to be sure all assets fit within new rules & the public knows the Court will still be involved)
- <u>Title Insurance</u>: Must take additional steps to ensure that title insurance will issue in the future (may be an immediate or future need)

<u>Are Trusts Dead???? \rightarrow <u>NO</u>!</u>

- The new law expands the scope of small estate administrations – so practitioners should become adept at evaluating fact patterns to ascertain if the new procedure is appropriate/advantageous
- Most people will continue to want a fully private arrangement (i.e., a trust) and avoid court involvement
- Only fulfills really one estate planning objective – avoidance of formal probate – but not other objectives clients commonly have (i.e., management of assets during life, nominating a trustee, management of assets for beneficiaries, tax, etc.)

- Danger if estate plan to rely upon the new petition what if the client moves, the value goes up, changes primary residences, etc.?
- The new petitions are untried in California, so there may be a lot of trial and error before they become routine
- May unwitting ly make obtaining title insurance unavailable
- Public process with no creditor protections
- Inappropriate in many settings so trusts really will continue to be the go-to estate planning tool for many situations/clients
 - Watch out for Reverse Mortgages

Final Questions & Wrap Up

THANKYOU

Amanda L. Sinclair (925) 831-0636

as@hydenzakheimlaw.com

Esther Kim (925)228-3433 <u>ekim@thalaw.com</u>

ASSEMBLYBILL2397

AN ACTTO AMEND SECTION 3910 OF THE FAMILYCODE, RELATING TO ADULT, DEPENDENT CHILD SUPPORT

HTTPS://LEGISCAN.COM/CA/TEXT/AB2397/ID/3012265/CALIFORNIA-2023-AB2397-CHAPTERED.HTML

Bonus Family Code Section AB 2397:

• Existing law also provides that both parents have an equal responsibility to maintain, to the extent of their ability, a child of whatever age who is incapacitated from earning a living and without sufficient means

- Prior law relied on equitable principles to allow the Family Court to order dependent adult child support to be paid to an SNT
- The new law gives explicit judicial authority to (but does not mandate) the Court to order the support payment to be paid to an SNT

Bill Text: sec. 1. Section 3910 of the Family Code is

amended to read:

Red is removed text Blue is added text

3910. Support of Adult Child

(a) The father and mother have Each parent of a child has an equal responsibility to maintain, to the extent of their ability, their child of whatever age who is incapacitated from earning a living and without sufficient means.

(b) Nothing in this section limits

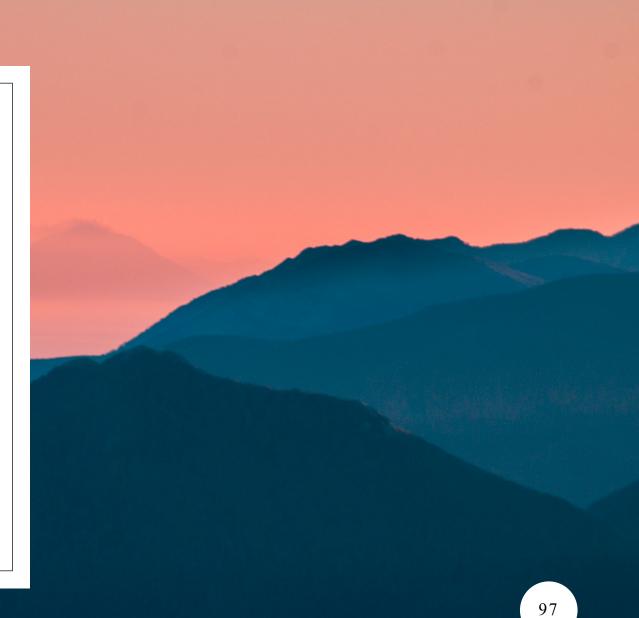
(b) The court may order that a support payment be paid to a special needs trust established under Section 3604 of the Probate Code. trust. For purposes of this section, "special needs trust" means a trust that meets the requirements described in subparagraph (A) or (C) of paragraph (4) of subsection (d) of Section 1396p of Title 42 of the United States Code and paragraph (3) or (4) of subdivision (a) of Section 50489.9 of Title 22 of the California Code of Regulations.

(c) This section does not limit the duty of support under Sections 3900 and 3901.

What Changes to FC §3910 Do

- The amended statute clarifies to family court judges that they have the authority to order dependent adult child support an SNT (some judges were reluctant to so order which disrupted public benefits & caused real harm to vulnerable adults living with special needs)
- Important behind-the-scenes work by local practitioners resulted in an amendment during legislative process that changed the original legislation that would've required on-going Probate Court supervision of any such created trusts
- New law allows for a trust that complies with the payback provisions for Medi-Cal & SSA requirements for 1st Party Trusts (required because support is "deemed" to child even if paid to other parent) & not to the child and does not require on-going supervision by the Probate Court

Are Trusts Dead after April 1, 2025? A Deep Dive into AB 2016 and the New Primary Residence Exclusion from Probate





Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688 www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

W25-10

Title

Decedents' Estates: Succession to Real Property of Small Value Review and submit comments by January 6, 2025

Action Requested

Proposed Rules, Forms, Standards, or Statutes Revise forms DE-310 and DE-315

Proposed by Probate and Mental Health Advisory Committee Hon. Jayne Chong-Soon Lee, Chair **Proposed Effective Date** April 28, 2025

Contact Corby Sturges, 415-865-4507 corby.sturges@jud.ca.gov

Executive Summary and Origin

The Probate and Mental Health Advisory Committee proposes revising two forms in response to recent legislation that changed the statutory procedure for claiming succession to real property by raising the maximum value of the property claimed to \$750,000 and limiting the application of the procedure to succession to a decedent's primary residence in California. The proposed form revisions would conform to these changes and make technical and formatting corrections.

Background

Effective January 1, 2025, Assembly Bill 2016 (Stats. 2024, ch. 331) amended Probate Code sections 13150, 13151, 13152, and 13154 and repealed section 13158.¹ These amendments narrow the scope of the procedure used to claim succession to a decedent's real and personal property in California if the gross value of the decedent's estate in California falls below a specified value. That procedure may now be used only for succession to real property that was the decedent's "primary residence in this state" if the gross value of "that real property" does not

¹ All further statutory references are to the Probate Code. AB 2016 also amended sections 13100 and 13101, which govern the affidavit procedure for collection or transfer of *personal* property. The property used to determine eligibility for that procedure now excludes "any property included in a petition filed under Section 13151." Because the affidavit used in this procedure is not submitted to the court but is instead given directly to the holder of the property to be collected, there is no applicable Judicial Council affidavit form.

exceed the threshold amount.² The legislation also, effective April 1, 2025, increases the maximum value of the subject real property to \$750,000, to be further adjusted every three years according to the procedure in section 890.³

The Proposal

Petition to Determine Succession to Real Property (form DE-310) and *Order Determining Succession to Real Property* (form DE-315) are currently used for the procedure described above. The statutory amendments require revisions to these forms to allow their continued use for the new procedure. The committee proposes, effective April 28, 2025, to:

- Revise form DE-310 by:
 - Retitling the form as *Petition to Determine Succession to Primary Residence in California*;
 - Updating item 1 to specify that the real property that is the subject of the petition was the decedent's primary residence in California and not any other real or personal property;⁴
 - Revising item 8 to refer only to the real property that is the subject of the petition and to update the maximum values of that property;
 - Updating item 11 to limit the scope of the property description to the property that is the subject of the petition and to require that, in addition to a statement of the decedent's interest in the real property, the petition include facts showing that the property was the decedent's primary residence in California; and
 - Revising items 12 and 13 to refer more specifically to the real property that is the subject of the petition; and

² See, e.g., Stats. 2024, ch. 331, § 4, amending § 13151. The amendments have the peculiar effect of allowing a decedent to have more than one "primary residence" but only one such residence in California. This effect was acknowledged and accepted by the bill's author and sponsor.

³ The committee also plans to recommend technical revisions to *Maximum Values for Small Estate Set-Aside & Disposition of Estate Without Administration* (form DE-300) and *Affidavit re Real Property of Small Value* (form DE-305) to reflect the amount increased by AB 2016 and other amounts adjusted according to the requirements in section 890. All adjusted amounts will take effect April 1, 2025, and be published by that date on the California courts website. Because the revisions to forms DE-300 and DE-305 will do no more than apply the formula mandated by section 890(b), the committee plans to recommend their adoption along with the forms in this proposal, effective April 28, 2025, without circulating them for public comment.

⁴ The Probate Code no longer authorizes a petition procedure for succession to real or personal property of small value other than a decedent's primary residence in California. Section 13152(f), as amended, makes clear that the procedure to succeed to the decedent's primary residence in California applies regardless of the decedent's date of death. (See also § 13152(a)(2).) The affidavit procedures under section 13100 et seq. (personal property) and section 13200 et seq. (real property) will remain available after January 1, 2025, for succession to property of small value.

- Revise form DE-315 by:
 - Retitling the form as *Order Determining Succession to Primary Residence in California*;
 - Revising item 6 to refer more specifically to the real property that is the subject of the order and to update the maximum values of that property;
 - Revising item 7 to refer more specifically to the property that is the subject of the order;
 - Adding new item 8, a finding that the real property that is the subject of the petition was the decedent's primary residence in California; and
 - Renumbering existing item 8 as item 9 and revising it to specify more precisely the property that is the subject of the order.

The forms, as proposed to be revised, are attached at pages 5–7.

Alternatives Considered

The committee did not consider the alternative of taking no action because the form revisions are required to implement statutory changes affecting litigants, including self-represented litigants, and to bring the forms into compliance with current law. The committee did consider proposing different effective dates for the revisions. Initially, the committee considered proposing a January 1, 2026, effective date, but determined that an earlier effective date would be more appropriate. Because the increase to the maximum value of eligible property takes effect April 1, 2025, delaying implementation beyond that date longer than necessary would frustrate self-represented litigants who attempted to claim residences belonging to decedents who had died on or after April 1 that were valued at more than \$184,500 but less than \$750,000.

The committee also considered proposing a January 1, 2025, effective date, with circulation for comment after council approval. Although AB 2016's limitation of the statutory process to a decedent's primary residence in California does take effect on January 1, the committee determined that the existing forms may be used without modification to succeed to a decedent's primary residence until May 12, 2025. That is the first day on which a person may file a petition under section 13151 to succeed to a decedent's primary residence that is valued between \$184,500 and \$750,000.⁵ In addition, even if the council revised the forms effective January 1, 2025, it would need to revise them again on or shortly after the April 1, 2025, effective date of the adjustment of the maximum property value. The committee concluded that two separate but related revisions of the same forms within four months of one another would cause confusion

⁵ The April 1, 2025, value adjustments required by section 890 and SB 1106 apply only to property of decedents who die on or after that date. Section 13151 requires a successor to wait at least 40 days after a decedent's death before filing a petition to start the process in which forms DE-310 and DE-315 are used. The revised forms will therefore take effect in time for their first authorized use.

exceeding any benefit of an earlier effective date. For these reasons, the committee proposes that all form revisions take effect April 28, 2025, the Monday after the meeting at which the Judicial Council will consider proposals circulated for comment this winter cycle.

Fiscal and Operational Impacts

The only fiscal or operational impacts this proposal may have on courts or litigants are the costs of replacing outdated forms and reprogramming digital case management systems. Because the changes are required by statute, their impacts cannot be avoided.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

• Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- How well would this proposal work in courts of different sizes?

Attachments and Links

- 1. Forms DE-310 and DE-315, at pages 5-7
- 2. Link A: Assembly Bill 2016 (Stats. 2024, ch. 331), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB2016

						DE-310	
AT	FORNEY OR PARTY WITHOUT ATTORNEY	STATE BAR NO .:			FOR COURT USE ONLY		
NA							
CIT	REET ADDRESS:	STATE:	ZIP CODE:				
	EPHONE NO.:	FAX NO.:	ZIP CODE:				
	AIL ADDRESS:	TAX NO			DRAFT 110624		
	ATTORNEY FOR (name):				Not approved by		
91	IPERIOR COURT OF CALIFORNIA, COUN				the Judicial Counci	I	
	TREET ADDRESS:						
	AILING ADDRESS:						
CITY AND ZIP CODE:							
	BRANCH NAME:						
ES	STATE OF (name):				CASE NUMBER:		
				DECEDENT			
				DECEDENT	HEARING DATE AND TIME:	DEPT.:	
	PETITION TO DETE						
	PRIMART RESIL	ENCE IN CALIFO					
1.	Petitioner (name of each person claim	ing an interest):					
	requests a determination that the real property described in item 11 <mark>was the decedent's primary residence in California</mark> and is property passing to petitioner.						
2.	Decedent <i>(name):</i> a. Date of death:						
	b. Place of death (city and state or, if outside the United States, city and country):						
3.	3. At least 40 days have passed since the decedent's death.						
4.	 a. Decedent was a resident of this county at the time of death. b. Decedent was not a resident of California at the time of death. Decedent died owning property in this county. 						
5.	5. Decedent died intestate (<i>without a will</i>) testate (<i>with a will</i>), and a copy of the will is attached as Attachment 5 or 12a						
6.	 a. No proceeding for the administration of decedent's estate is being conducted or has been conducted in California. b. Decedent's personal representative's consent to use the procedure provided by Probate Code section 13150 et seq. is attached as Attachment 6b. 						
7.	 Proceedings for the administration of decedent's estate in another jurisdiction a have not been commenced. b have been commenced and completed. (Specify state, county, court, and case number): 						
8.	 B. The gross value, at the time of decedent's death, of decedent's interest in the real property described in item 11, as shown by the attached appraisal, did not exceed (check one): a. \$166,250 (decedent died before April 1, 2022). b. \$184,500 (decedent died on or after April 1, 2022, and before April 1, 2025. Form DE-300 is attached as required by law). c. \$750,000 (decedent died on or after April 1, 2025, and before April 1, 2028. Form DE-300 is attached as required by law). (Prepare and attach as Attachment 8 an appraisal of the property described in item 11. (Use Judicial Council forms DE-160 and DE-161.) A probate referee appointed for the county named above must perform the appraisal. See Probate Code, §§ 8901, 8902.) 						
9.	 a. Decedent is survived by (check ite (1) spouse 	-	•			, ,	
	 (2) no spouse, as follows: (3) registered domestic par (4) no registered domestic (5) child, as follows: (a) (6) no child (7) issue of a predeceased (8) no issue of a predecease 	ther partner <i>(See Family</i> natural or ado child sed child	pted (b)	c); Probate C] natural, add	spouse deceased sode, §§ 37(b), 6401(c), and 6402.) opted by a third party		
	b. Decedent is is not				ren who would have been adopted b	у	
	decedent if a legal barrier had not	prevented adoption.	. (See Probate (20ae, § 6454.	.)	Page 1 of 2	

PETITION TO DETERMINE SUCCESSION TO PRIMARY RESIDENCE IN CALIFORNIA

	DE-31						
ESTATE OF (name):	CASE NUMBER:						
	DECEDENT						
Decedent is survived by (complete if decedent is survived by (1) a spouse or registered domestic partner described in Probate Code, § 37, but no issue (only a or b apply); or (2) no spouse or registered domestic partner described in Probate Code, § 37, and no issue. Check only the first box that applies.)							
 a a parent or parents who are listed in item 14. b a sibling, or issue of a deceased sibling, all of whom are listed in item 14. c other persons who might be entitled to inherit property if decedent did not have a will, all of whom are listed in item 14. d no known next of kin. 							
11. Attachment 11 contains (1) the legal description and the Assessor's Parcel Number of the real property claimed in this petition; (2) a statement of decedent's interest in the property, including facts that show that the property was decedent's primary residence in California; and (3) if any petitioner's claim to the property is based on succession under Probate Code sections 6401 and 6402, facts that show whether the property was community, separate, or quasi-community property.							
 Each petitioner is a successor of the decedent (as defined in Probate Code section 13006) and successor to the decedent's interes in the real property described in item 11 because each petitioner is (will) a beneficiary who succeeded to that property under decedent's will, and a copy of the will is attached as Attachment 							
5 or 12a.							
13. The interest <mark>of</mark> each petitioner in the property described in item 11 [is stated in Attachment 13 is as follows (<i>specify</i>).						
14. The names, relationships to decedent, ages, and residence or mailing petitioner, of (1) all persons named or checked in items 1, 9, and 10; property in the absence of a will; and (3) all persons designated in the	(2) all other persons who may be entitled to inherit decedent's						
15. The names and addresses of all executors named in decedent's will a	are listed below listed in Attachment 15.						
 No executor is named. There is no will. 16. Petitioner is the trustee of a trust designated in decedent's will to receive property. The names and addresses of all persons interested in the trust, as determined in cases of future interests under Probate Code section 15804(a)(1), (2), or (3), are listed in Attachment 16. 17. Decedent's estate was under a guardianship conservatorship at decedent's death. The names and addresses of all persons serving as guardian or conservator 							
18. Number of pages attached: Date:							
(TYPE OR PRINT NAME OF ATTORNEY)	(SIGNATURE OF ATTORNEY)*						
I declare under penalty of perjury under the laws of the State of California Date:	a that the foregoing is true and correct.						
(TYPE OR PRINT NAME OF PETITIONER)	(SIGNATURE OF PETITIONER)*						
(TYPE OR PRINT NAME OF PETITIONER)	(SIGNATURE OF PETITIONER)*						
* Each petitioner (i.e., each person named in item 1) must sign this form. (Probate Code, § 10	SIGNATURE(S) OF ADDITIONAL PETITIONERS ATTACHED						
PETITION TO DETERMINE PRIMARY RESIDENCE							

DE-315						
ATTORNEY OR PARTY WITHOUT ATTORNEY STATE BAR NO.: After recording, return to:						
NAME:						
FIRM NAME:						
STREET ADDRESS:						
CITY, STATE, ZIP CODE:	r	DRAFT 110624				
	Not approved by					
EMAIL ADDRESS:	the	the Judicial Council				
ATTORNEY FOR (name):						
SUPERIOR COURT OF CALIFORNIA, COUNTY OF						
STREET ADDRESS:						
MAILING ADDRESS:						
CITY AND ZIP CODE:						
BRANCH NAME:	FC	OR RECORDER'S USE ONLY				
ESTATE OF (name):		CASE NUMBER:				
	DECEDENT					
ORDER DETERMINING SUCCESSIO PRIMARY RESIDENCE IN CALIFOR		FOR COURT USE ONLY				
1. Date of hearing: Time:						
Dept./Room:						
Judicial Officer <i>(name):</i>						
THE COURT FINDS						
2. Notice has been given as required by law.						
3. Decedent died on <i>(date):</i>						
a. a resident of this county.						
	this county					
c. intestate (without a will) itestate (with a will).						
At least 40 days have passed since the decedent's death.						
5. a. No proceeding for the administration of the decedent's estate is now being or has been conducted in California.						
b. Decedent's personal representative has consented in writing to use the procedure in Probate Code section 13150 et seq.						
 The gross value of the real property described in item 9a does not exceed 						
\$166,250 (death before April 1, 2022).						
\$184,500 (death on or after April 1, 2022 <mark>, and before April 1, 2025</mark>).						
\$750,000 (death on or after April 1, 2025).						
 Each petitioner is a successor of the decedent (as defined in Probate Code section 13006) to the decedent's interest in the real property described in item 9a because each petitioner is (check one): 						
 a. (will) a beneficiary who succeeded to the property under decedent's will. b. (no will) a person who succeeded to the property under Probate Code sections 6401 and 6402. 						
8. The real property described in item 9a was the decedent's primary residence in the state of California.						
 The real property described in item 9a was the decedent's p 	nmary residence in the stat	le of California.				
THE COURT FURTHER FINDS AND ORDERS						
9. a. The real property described in Attachment 9a	described below p	basses to each petitioner as described in b.				
	Give legal description of property, including Assessor's Parcel Number):					
Lowe regar description of property, including Assessor's raider number).						
b. Each petitioner's name and specific interest in the property of the pro	erty 🛛 🔄 is stated in Atta	chment <mark>9b</mark> is as follows <i>(specify):</i>				
	-					
10. Other orders are stated in Attachment 10.						
11. Number of pages attached:						
Date:						
Date:		JUDICIAL OFFICER				
	SIGNATURE FOLLO					
Form Adopted for Mandatory Use ORDER DETERM		Tage Tort				
Judicial Council of California	DENCE IN CALIFORNIA	www.courts.ca.dov				
DE-315 [Rev. April 1, 2025] PRIMARY RESI	DENCE IN CALIFURNIA					

7