

**Introduced by Senator Jackson**February 25, 2015

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An act to amend Sections 10238 and 17537.1 of the Business and Professions Code, to amend Sections 50, 51.3, 51.11, 682, 682.1, 683, 1099, 1569, and 3390 of the Civil Code, to amend Sections 371, 116.540, 703.140, and 704.930 of the Code of Civil Procedure, to amend Sections 158, 704, 5612, 7612, 12482, 25102, and 25206 of the Corporations Code, to amend Sections 21100, 24803, and 68062 of the Education Code, to amend Sections 917 and 980 of the Evidence Code, to amend Sections 14860, 18220, 18523, and 22327 of the Financial Code, to amend Section 8552.3 of the Fish and Game Code, to amend Sections 9359.9, 9374, 21571, 21572, and 21573, of the Government Code, to amend Sections 1373.5, 18080, 25299.54, and 32501 of the Health and Safety Code, to amend Sections 10112, 10121.5, 10320, 10493, and 10494.6 of the Insurance Code, to amend Section 3503 of the Labor Code, to amend Sections 152.3, 197, 270e, 273.5, 281, 282, 284, 534, 4002, and 13700 of the Penal Code, to amend Sections 59, 78, 100, 101, 103, 2407, 5203, 5600, 5601, 6122, 6227, 6240, 13500, and 13600 of the Probate Code, to amend Sections 17021, 17039, 17045, 17053.5, 17054, 17077, 17555, 18501, 18522, 18530, 18531.5, 18532, 19006, 19035, 19107, 19110, 19701.5, and 20542 of the Revenue and Taxation Code, to amend Section 2804 of the Streets and Highways Code, to amend Section 13003 of the Unemployment Insurance Code, and to amend Sections 742.16, 7275, 12003, 14140, and 18291 of the Welfare and Institutions Code, relating to marriage.

## LEGISLATIVE COUNSEL'S DIGEST

SB 414, as introduced, Jackson. Marriage.

Under existing law, a reference to “husband” and “wife,” “spouses,” or “married persons,” or a comparable term, includes persons who are lawfully married to each other and persons who were previously lawfully married to each other, as is appropriate under the circumstances of the particular case.

The bill would replace references to a “husband” or “wife” with references to a “spouse,” and would make other conforming and related changes.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 10238 of the Business and Professions  
2 Code is amended to read:

3 10238. (a) A notice in the following form and containing the  
4 following information shall be filed with the commissioner within  
5 30 days after the first transaction and within 30 days of any material  
6 change in the information required in the notice:

7  
8 TO: Real Estate Commissioner  
9 Mortgage Loan Section  
10 2201 Broadway  
11 Sacramento, CA 95818

12 This notice is filed pursuant to Sections 10237 and 10238 of the Business and  
13 Professions Code.

14 ( ) Original Notice ( ) Amended Notice

- 15 1. Name of Broker conducting transaction under Section 10237:  
16 \_\_\_\_\_
- 17
- 18 2. Broker license identification number: \_\_\_\_\_
- 19
- 20 3. List the month the fiscal year ends: \_\_\_\_\_
- 21
- 22 4. Broker’s telephone number: \_\_\_\_\_
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- 24 5. Firm name (if different from “1”):  
25 \_\_\_\_\_
- 26
- 27 6. Street address (main location):

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7. Mailing address (if different from "6"):  
\_\_\_\_\_

8. Servicing agent: Identify by name, address, and telephone number the person or entity who will act as the servicing agent in transactions pursuant to Section 10237 (including the undersigned Broker if that is the case):  
\_\_\_\_\_  
\_\_\_\_\_

9. Total number of multilender notes arranged: \_\_\_\_\_

10. Total number of interests sold to investors on the multilender's notes: \_\_\_\_\_

11. Inspection of trust account (before answering this question, review the provisions of paragraph (3) of subdivision (k) of Section 10238).

CHECK ONLY ONE OF THE FOLLOWING:

( ) The undersigned Broker is (or expects to be) required to file reports of inspection of its trust account(s) with the Real Estate Commissioner pursuant to paragraph (3) of subdivision (k) of Section 10238.

Amount of Multilender Payments Collected Last Fiscal Quarter: \_\_\_\_\_

Total Number of Investors Due Payments Last Fiscal Quarter: \_\_\_\_\_

( ) The undersigned Broker is NOT (or does NOT expect to be) required to file reports of inspection of its trust account(s) with the Real Estate Commissioner pursuant to paragraph (3) of subdivision (k) of Section 10238.

12. Signature. The contents of this notice are true and correct.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Type Name of Broker

\_\_\_\_\_  
Signature of Broker or of Designated Officer of  
Corporate Broker

\_\_\_\_\_  
Type Name of Person(s) Signing This Notice

1 NOTE: AN AMENDED NOTICE MUST BE FILED BY THE  
2 BROKER WITHIN 30 DAYS OF ANY MATERIAL CHANGE  
3 IN THE INFORMATION REQUIRED TO BE SET FORTH  
4 HEREIN.

5

6 (b) A broker or person who becomes the servicing agent for  
7 notes or interest sold pursuant to this article, upon which payments  
8 due during any period of three consecutive months in the aggregate  
9 exceed one hundred twenty-five thousand dollars (\$125,000) or  
10 the number of persons entitled to the payments exceeds 120, shall  
11 file the notice required by subdivision (a) with the commissioner  
12 within 30 days after becoming the servicing agent.

13 (c) All advertising employed for transactions under this article  
14 shall show the name of the broker and comply with Section 10235  
15 and Sections 260.302 and 2848 of Title 10 of the California Code  
16 of Regulations. Brokers and their agents are cautioned that a  
17 reference to a prospective investor that a transaction is conducted  
18 under this article may be deemed misleading or deceptive if this  
19 representation may reasonably be construed by the investor as an  
20 implication of merit or approval of the transaction.

21 (d) Each parcel of real property directly securing the notes or  
22 interests shall be located in this state, the note or notes shall not  
23 by their terms be subject to subordination to any subsequently  
24 created deed of trust upon the real property, and the note or notes  
25 shall not be promotional notes secured by liens on separate parcels  
26 of real property in one subdivision or in contiguous subdivisions.  
27 For purposes of this subdivision, a promotional note means a  
28 promissory note secured by a trust deed, executed on unimproved  
29 real property or executed after construction of an improvement of  
30 the property but before the first purchase of the property as so  
31 improved, or executed as a means of financing the first purchase  
32 of the property as so improved, that is subordinate, or by its terms  
33 may become subordinate, to any other trust deed on the property.  
34 However, the term “promotional note” does not include either of  
35 the following:

36 (1) A note that was executed in excess of three years prior to  
37 being offered for sale.

38 (2) A note secured by a first trust deed on real property in a  
39 subdivision that evidences a bona fide loan made in connection

1 with the financing of the usual cost of the development in a  
 2 residential, commercial, or industrial building or buildings on the  
 3 property under a written agreement providing for the disbursement  
 4 of the loan funds as costs are incurred or in relation to the progress  
 5 of the work and providing for title insurance ensuring the priority  
 6 of the security as against mechanic’s and materialmen’s liens or  
 7 for the final disbursement of at least 10 percent of the loan funds  
 8 after the expiration of the period for the filing of mechanic’s and  
 9 materialmen’s liens.

10 (e) The notes or interests shall be sold by or through a real estate  
 11 broker, as principal or agent. At the time the interests are originally  
 12 sold or assigned, neither the broker nor an affiliate of the broker  
 13 shall have an interest as owner, lessor, or developer of the property  
 14 securing the loan, or any contractual right to acquire, lease, or  
 15 develop the property securing the loan. This provision does not  
 16 prohibit a broker from conducting the following transactions if, in  
 17 either case, the disclosure statement furnished by the broker  
 18 pursuant to subdivision (l) discloses the interest of the broker or  
 19 affiliate in the transaction and the circumstances under which the  
 20 broker or affiliate acquired the interest:

21 (1) A transaction in which the broker or an affiliate of the broker  
 22 is acquiring the property pursuant to a foreclosure under, or sale  
 23 pursuant to, a deed of trust securing a note for which the broker is  
 24 the servicing agent or that the broker sold to the holder or holders.

25 (2) A transaction in which the broker or an affiliate of the broker  
 26 is reselling from inventory property acquired by the broker pursuant  
 27 to a foreclosure under, or sale pursuant to, a deed of trust securing  
 28 a note for which the broker is the servicing agent or that the broker  
 29 sold to the holder or holders.

30 (f) (1) The notes or interests shall not be sold to more than 10  
 31 persons, each of whom meets one or both of the qualifications of  
 32 income or net worth set forth below and signs a statement, which  
 33 shall be retained by the broker for four years, conforming to the  
 34 following:

35  
 36 Transaction Identifier: \_\_\_\_\_

37 Name of Purchaser: \_\_\_\_\_ Date: \_\_\_\_\_

38 Check either one of the following, if true:

39 ( ) My investment in the transaction does not exceed 10% of my net worth,  
 40 exclusive of home, furnishings, and automobiles.

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( ) My investment in the transaction does not exceed 10% of my adjusted gross income for federal income tax purposes for my last tax year or, in the alternative, as estimated for the current year.

\_\_\_\_\_  
Signature

(2) The number of offerees shall not be considered for the purposes of this section.

(3) ~~A husband and wife~~ *Spouses* and their dependents, and an individual and his or her dependents, shall be counted as one person.

(4) A retirement plan, trust, business trust, corporation, or other entity that is wholly owned by an individual and the individual’s spouse or the individual’s dependents, or any combination thereof, shall not be counted separately from the individual, but the investments of these entities shall be aggregated with those of the individual for the purposes of the statement required by paragraph (1). If the investments of any entities are required to be aggregated under this subdivision, the adjusted gross income or net worth of these entities may also be aggregated with the net worth, income, or both, of the individual.

(5) The “institutional investors” enumerated in subdivision (i) of Section 25102 or subdivision (c) of Section 25104 of the Corporations Code, or in a rule adopted pursuant thereto, shall not be counted.

(6) A partnership, limited liability company, corporation, or other organization that was not specifically formed for the purpose of purchasing the security offered in reliance upon this exemption from securities qualification is counted as one person.

(g) The notes or interests of the purchasers shall be identical in their underlying terms, including the right to direct or require foreclosure, rights to and rate of interest, and other incidents of being a lender, and the sale to each purchaser pursuant to this section shall be upon the same terms, subject to adjustment for the face or principal amount or percentage interest purchased and for interest earned or accrued. This subdivision does not preclude different selling prices for interests to the extent that these differences are reasonably related to changes in the market value of the loan occurring between the sales of these interests. The

1 interest of each purchaser shall be recorded pursuant to  
2 subdivisions (a) to (c), inclusive, of Section 10234.

3 (h) (1) Except as provided in paragraph (2), the aggregate  
4 principal amount of the notes or interests sold, together with the  
5 unpaid principal amount of any encumbrances upon the real  
6 property senior thereto, shall not exceed the following percentages  
7 of the current market value of each parcel of the real property, as  
8 determined in writing by the broker or appraiser pursuant to Section  
9 10232.6, plus the amount for which the payment of principal and  
10 interest in excess of the percentage of current market value is  
11 insured for the benefit of the holders of the notes or interests by  
12 an insurer admitted to do business in this state by the Insurance  
13 Commissioner:

- 14
- 15 (A) Single-family residence, owner occupied ..... 80%
- 16 (B) Single-family residence, not owner occupied ..... 75%
- 17 (C) Commercial and income-producing properties ..... 65%
- 18 (D) Single-family residentially zoned lot or parcel which has  
19 installed offsite improvements including drainage, curbs,  
20 gutters, sidewalks, paved roads, and utilities as mandated  
21 by the political subdivision having jurisdiction over the lot  
22 or parcel ..... 65%
- 23 (E) Land that has been zoned for (and if required, approved for  
24 subdivision as) commercial or residential development ..... 50%
- 25 (F) Other real property ..... 35%
- 26

27 (2) The percentage amounts specified in paragraph (1) may be  
28 exceeded when and to the extent that the broker determines that  
29 the encumbrance of the property in excess of these percentages is  
30 reasonable and prudent considering all relevant factors pertaining  
31 to the real property. However, in no event shall the aggregate  
32 principal amount of the notes or interests sold, together with the  
33 unpaid principal amount of any encumbrances upon the property  
34 senior thereto, exceed 80 percent of the current fair market value  
35 of improved real property or 50 percent of the current fair market  
36 value of unimproved real property, except in the case of a  
37 single-family zoned lot or parcel as defined in paragraph (1), which  
38 shall not exceed 65 percent of the current fair market value of that  
39 lot or parcel, plus the amount insured as specified in paragraph  
40 (1). A written statement shall be prepared by the broker that sets

1 forth the material considerations and facts that the broker relies  
2 upon for his or her determination, which shall be retained as a part  
3 of the broker’s record of the transaction. Either a copy of the  
4 statement or the information contained therein shall be included  
5 in the disclosures required pursuant to subdivision (l).

6 (3) A copy of the appraisal or the broker’s evaluation, for each  
7 parcel of real property securing the notes or interests, shall be  
8 delivered to each purchaser. The broker shall advise purchasers  
9 of their right to receive a copy. For purposes of this paragraph,  
10 “appraisal” means a written estimate of value based upon the  
11 assembling, analyzing, and reconciling of facts and value indicators  
12 for the real property in question. A broker shall not purport to make  
13 an appraisal unless the person so employed is qualified on the basis  
14 of special training, preparation, or experience.

15 (4) For construction or rehabilitation loans, the term “current  
16 market value” may be deemed to be the value of the completed  
17 project if the following safeguards are met:

18 (A) An independent neutral third-party escrow holder is used  
19 for all deposits and disbursements.

20 (B) The loan is fully funded, with the entire loan amount to be  
21 deposited in escrow prior to recording of the deed or deeds of trust.

22 (C) A comprehensive, detailed, draw schedule is used to ensure  
23 proper and timely disbursements to allow for completion of the  
24 project.

25 (D) The disbursement draws from the escrow account are based  
26 on verification from an independent qualified person who certifies  
27 that the work completed to date meets the related codes and  
28 standards and that the draws were made in accordance with the  
29 construction contract and draw schedule. For purposes of this  
30 subparagraph, “independent qualified person” means a person who  
31 is not an employee, agent, or affiliate of the broker and who is a  
32 licensed architect, general contractor, structural engineer, or active  
33 local government building inspector acting in his or her official  
34 capacity.

35 (E) An appraisal is completed by a qualified and licensed  
36 appraiser in accordance with the Uniform Standards of Professional  
37 Appraisal Practice (USPAP).

38 (F) In addition to the transaction documentation required by  
39 subdivision (i), the documentation shall include a detailed  
40 description of actions that may be taken in the event of a failure

1 to complete the project, whether that failure is due to default,  
2 insufficiency of funds, or other causes.

3 (G) The entire amount of the loan does not exceed two million  
4 five hundred thousand dollars (\$2,500,000).

5 (5) If a note or an interest will be secured by more than one  
6 parcel of real property, for the purpose of determining the  
7 maximum amount of the note or interest, each security property  
8 shall be assigned a portion of the note or interest which shall not  
9 exceed the percentage of current market value determined by, and  
10 in accordance with, the provisions of paragraphs (1) and (2).

11 (i) The documentation of the transaction shall require that (1)  
12 a default upon any interest or note is a default upon all interests  
13 or notes and (2) the holders of more than 50 percent of the recorded  
14 beneficial interests of the notes or interests may govern the actions  
15 to be taken on behalf of all holders in accordance with Section  
16 2941.9 of the Civil Code in the event of default or foreclosure for  
17 matters that require direction or approval of the holders, including  
18 designation of the broker, servicing agent, or other person acting  
19 on their behalf, and the sale, encumbrance, or lease of real property  
20 owned by the holders resulting from foreclosure or receipt of a  
21 deed in lieu of foreclosure. The terms called for by this subdivision  
22 may be included in the deed of trust, in the assignment of interests,  
23 or in any other documentation as is necessary or appropriate to  
24 make them binding on the parties.

25 (j) (1) The broker shall not accept any purchase or loan funds  
26 or other consideration from a prospective lender or purchaser, or  
27 directly or indirectly cause the funds or other consideration to be  
28 deposited in an escrow or trust account, except as to a specific loan  
29 or note secured by a deed of trust that the broker owns, is  
30 authorized to negotiate, or is unconditionally obligated to buy.

31 (2) All funds received by the broker from the purchasers or  
32 lenders shall be handled in accordance with Section 10145 for  
33 disbursement to the persons thereto entitled upon recordation of  
34 the interests of the purchasers or lenders in the note and deed of  
35 trust. No provision of this article shall be construed as modifying  
36 or superseding applicable law regulating the escrow holder in any  
37 transaction or the handling of the escrow account.

38 (3) The books and records of the broker or servicing agent, or  
39 both, shall be maintained in a manner that readily identifies

1 transactions under this article and the receipt and disbursement of  
2 funds in connection with these transactions.

3 (4) If required by paragraph (3) of subdivision (k), the review  
4 by the independent certified public accountant shall include a  
5 sample of transactions, as reflected in the records of the trust  
6 account required pursuant to paragraph (1) of subdivision (k), and  
7 the bank statements and supporting documents. These documents  
8 shall be reviewed for compliance with this article with respect to  
9 the handling and distribution of funds. The sample shall be selected  
10 at random by the accountant from all these transactions and shall  
11 consist of the following: (A) three sales made or 5 percent of the  
12 sales made pursuant to this article during the period for which the  
13 examination is conducted, whichever is greater, and (B) 10  
14 payments processed or 2 percent of payments processed under this  
15 article during the period for which the examination is conducted,  
16 whichever is greater.

17 (5) For the purposes of this subdivision, the transaction that  
18 constitutes a “sale” is the series of transactions by which a series  
19 of notes of a maker, or the interests in the note of a maker, are sold  
20 or issued to their various purchasers under this article, including  
21 all receipts and disbursements in that process of funds received  
22 from the purchasers or lenders. The transaction that constitutes a  
23 “payment,” for the purposes of this subdivision, is the receipt of  
24 a payment from the person obligated on the note or from some  
25 other person on behalf of the person so obligated, including the  
26 broker or servicing agent, and the distribution of that payment to  
27 the persons entitled thereto. If a payment involves an advance paid  
28 by the broker or servicing agent as the result of a dishonored check,  
29 the inspection shall identify the source of funds from which the  
30 payment was made or, in the alternative, the steps that are  
31 reasonably necessary to determine that there was not a  
32 disbursement of trust funds. The accountant shall inspect for  
33 compliance with the following specific provisions of this section:  
34 paragraphs (1), (2), and (3) of subdivision (j) and paragraphs (1)  
35 and (2) of subdivision (k).

36 (6) Within 30 days of the close of the period for which the report  
37 is made, or within any additional time as the commissioner may  
38 in writing allow in a particular case, the accountant shall forward  
39 to the broker or servicing agent, as the case may be, and to the  
40 commissioner, the report of the accountant, stating that the

1 inspection was performed in accordance with this section, listing  
2 the sales and the payments examined, specifying the nature of the  
3 deficiencies, if any, noted by the accountant with respect to each  
4 sale or payment, together with any further information as the  
5 accountant may wish to include, such as corrective steps taken  
6 with respect to any deficiency so noted, or stating that no  
7 deficiencies were observed. If the broker meets the threshold  
8 criteria of Section 10232, the report of the accountant shall be  
9 submitted as part of the quarterly reports required under Section  
10 10232.25.

11 (k) The notes or interests shall be sold subject to a written  
12 agreement that obligates a licensed real estate broker, or a person  
13 exempted from the licensing requirement for real estate brokers  
14 under this chapter, to act as agent for the purchasers or lenders to  
15 service the note or notes and deed of trust, including the receipt  
16 and transmission of payments and the institution of foreclosure  
17 proceedings in the event of a default. A copy of this servicing  
18 agreement shall be delivered to each purchaser. The broker shall  
19 offer to the lenders or purchasers the services of the broker or one  
20 or more affiliates of the broker, or both, as servicing agent for each  
21 transaction conducted pursuant to this article. The agreement shall  
22 require all of the following:

23 (1) (A) That payments received on the note or notes be  
24 deposited immediately to a trust account maintained in accordance  
25 with this section and with the provisions for trust accounts of  
26 licensed real estate brokers contained in Section 10145 and Article  
27 15 (commencing with Section 2830.1) of Chapter 6 of Title 10 of  
28 the California Code of Regulations.

29 (B) That payments deposited pursuant to subparagraph (A) shall  
30 not be commingled with the assets of the servicing agent or used  
31 for any transaction other than the transaction for which the funds  
32 are received.

33 (2) That payments received on the note or notes shall be  
34 transmitted to the purchasers or lenders pro rata according to their  
35 respective interests within 25 days after receipt thereof by the  
36 agent. If the source for the payment is not the maker of the note,  
37 the agent shall inform the purchasers or lenders in writing of the  
38 source for payment. A broker or servicing agent who transmits to  
39 the purchaser or lenders the broker's or servicing agent's own  
40 funds to cover payments due from the borrower but unpaid as a

1 result of a dishonored check may recover the amount of the  
2 advances from the trust fund when the past due payment is  
3 received. However, this article does not authorize the broker,  
4 servicing agent, or any other person to issue, or to engage in any  
5 practice constituting, any guarantee or to engage in the practice of  
6 advancing payments on behalf of the borrower.

7 (3) If the broker or person who is or becomes the servicing agent  
8 for notes or interests sold pursuant to this article upon which the  
9 payments due during any period of three consecutive months in  
10 the aggregate exceed one hundred twenty-five thousand dollars  
11 (\$125,000) or the number of persons entitled to the payments  
12 exceeds 120, the trust account or accounts of that broker or affiliate  
13 shall be inspected by an independent certified public accountant  
14 at no less than three-month intervals during the time the volume  
15 is maintained. Within 30 days after the close of the period for  
16 which the review is made, the report of the accountant shall be  
17 forwarded as provided in paragraph (6) of subdivision (j). If the  
18 broker is required to file an annual report pursuant to subdivision  
19 (o) or pursuant to Section 10232.2, the quarterly report pursuant  
20 to this subdivision need not be filed for the last quarter of the year  
21 for which the annual report is made. For the purposes of this  
22 subdivision, an affiliate of a broker is any person controlled by,  
23 controlling, or under common control with the broker.

24 (4) Unless the servicing agent will receive notice pursuant to  
25 Section 2924b of the Civil Code, the servicing agent shall file a  
26 written request for notice of default upon any prior encumbrances  
27 and promptly notify the purchasers or lenders of any default on  
28 the prior encumbrances or on the note or notes subject to the  
29 servicing agreement.

30 (5) The servicing agent shall promptly forward copies of the  
31 following to each purchaser or lender:

32 (A) Any notice of trustee sale filed on behalf of the purchasers  
33 or lenders.

34 (B) Any request for reconveyance of the deed of trust received  
35 on behalf of the purchasers or lenders.

36 (l) The broker shall disclose in writing to each purchaser or  
37 lender the material facts concerning the transaction on a disclosure  
38 form adopted or approved by the commissioner pursuant to Section  
39 10232.5, subject to the following:

- 1 (1) The disclosure form shall include a description of the terms  
2 upon which the note and deed of trust are being sold, including  
3 the terms of the undivided interests being offered therein, including  
4 the following:
- 5 (A) In the case of the sale of an existing note:
    - 6 (i) The aggregate sale price of the note.
    - 7 (ii) The percent of the premium over or discount from the  
8 principal balance plus accrued but unpaid interest.
    - 9 (iii) The effective rate of return to the purchasers if the note is  
10 paid according to its terms.
    - 11 (iv) The name and address of the escrow holder for the  
12 transaction.
    - 13 (v) A description of, and the estimated amount of, each cost  
14 payable by the seller in connection with the sale and a description  
15 of, and the estimated amount of, each cost payable by the  
16 purchasers in connection with the sale.
  - 17 (B) In the case of the origination of a note:
    - 18 (i) The name and address of the escrow holder for the  
19 transaction.
    - 20 (ii) The anticipated closing date.
    - 21 (iii) A description of, and the estimated amount of, each cost  
22 payable by the borrower in connection with the loan and a  
23 description of, and the estimated amount of, each cost payable by  
24 the lenders in connection with the loan.
  - 25 (C) In the case of a transaction involving a note or interest  
26 secured by more than one parcel of real property, in addition to  
27 the requirements of subparagraphs (A) and (B):
    - 28 (i) The address, description, and estimated fair market value of  
29 each property securing the loan.
    - 30 (ii) The amount of the available equity in each property securing  
31 the loan after the loan amount to be apportioned to each property  
32 is assigned.
    - 33 (iii) The loan to value percentage for each property after the  
34 loan amount to be apportioned to each property is assigned pursuant  
35 to subdivision (h).
- 36 (2) A copy of the written statement or information contained  
37 therein, as required by paragraph (2) of subdivision (h), shall be  
38 included in the disclosure form.

1 (3) Any interest of the broker or affiliate in the transaction, as  
2 described in subdivision (e), shall be included with the disclosure  
3 form.

4 (4) When the particular circumstances of a transaction make  
5 information not specified in the disclosure form material or  
6 essential to keep the information provided in the form from being  
7 misleading, and the other information is known to the broker, the  
8 other information shall also be provided by the broker.

9 (5) If more than one parcel of real property secures the notes or  
10 interests, the disclosure form shall also fully disclose any risks to  
11 investors associated with securing the notes or interests with  
12 multiple parcels of real property.

13 (m) The broker or servicing agent shall furnish any purchaser  
14 of a note or interest, upon request, with the names and addresses  
15 of the purchasers of the other notes or interests in the loan.

16 (n) No agreement in connection with a transaction covered by  
17 this article shall grant to the real estate broker, the servicing agent,  
18 or any affiliate of the broker or agent the option or election to  
19 acquire the interests of the purchasers or lenders or to acquire the  
20 real property securing the interests. This subdivision shall not  
21 prohibit the broker or affiliate from acquiring the interests, with  
22 the consent of the purchasers or lenders whose interests are being  
23 purchased, or the property, with the written consent of the  
24 purchasers or lenders, if the consent is given at the time of the  
25 acquisition.

26 (o) Each broker who conducts transactions under this article,  
27 or broker or person who becomes the servicing agent for notes or  
28 interest sold pursuant to this article, who meets the criteria of  
29 paragraph (3) of subdivision (k) shall file with the commissioner  
30 an annual report of a review of its trust account. The report shall  
31 be prepared and filed in accordance with subdivision (a) of Section  
32 10232.2 and the rules and procedures thereunder of the  
33 commissioner. That report shall cover the broker's transactions  
34 under this article and, if the broker also meets the threshold criteria  
35 set forth in Section 10232, the broker's transactions subject to that  
36 section shall be included as well.

37 (p) Each broker conducting transactions pursuant to this article,  
38 or broker or person who becomes the servicing agent for notes or  
39 interest sold pursuant to this article, who meets the criteria of  
40 paragraph (3) of subdivision (k) shall file with the commissioner

1 a report of the transactions that is prepared in accordance with  
2 subdivision (c) of Section 10232.2. If the broker also meets the  
3 threshold criteria of Section 10232, the report shall include the  
4 transactions subject to that section as well. This report shall be  
5 confidential pursuant to subdivision (f) of Section 10232.2.

6 SEC. 2. Section 17537.1 of the Business and Professions Code  
7 is amended to read:

8 17537.1. (a) It is unlawful for any person, or an employee,  
9 agent or independent contractor employed or authorized by that  
10 person, by any means, as part of an advertising plan or program,  
11 to offer any incentive as an inducement to the recipient to visit a  
12 location, attend a sales presentation, or contact a sales agent in  
13 person, by telephone or by mail, unless the offer clearly and  
14 conspicuously discloses in writing, in readily understandable  
15 language, all of the information required in paragraphs (1) and (2).  
16 If the offer is not initially made in writing, the required disclosures  
17 shall be received by the recipient in writing prior to any scheduled  
18 visit to a location, sales presentation, or contact with a sales agent.  
19 For purposes of this section, the term “incentive” means any item  
20 or service of value, including, but not limited to, any prize, gift,  
21 money, or other tangible property.

22 (1) The following disclosures shall appear on the front (or first)  
23 page of the offer:

24 (A) The name and street address of the owner of the real or  
25 personal property or the provider of the services which are the  
26 subject of the visit, sales presentation, or contact with a sales agent.  
27 If the offer is made by an agent or independent contractor employed  
28 or authorized by the owner or provider, or is made under a name  
29 other than the true name of the owner or provider, the name of the  
30 owner or provider shall be more prominently and conspicuously  
31 displayed than the name of the agent, independent contractor, or  
32 other name.

33 (B) A general description of the business of the owner or  
34 provider identified pursuant to subparagraph (A), and the purpose  
35 of any requested visit, sales presentation, or contact with a sales  
36 agent, which shall include a general description of the real or  
37 personal property or services which are the subject of the sales  
38 presentation and a clear statement, if applicable, that there will be  
39 a sales presentation and the approximate duration of the visit and  
40 sales presentation.

1 (C) If the recipient is not assured of receiving any particular  
2 incentive, a statement of the odds of receiving each incentive  
3 offered or, in the alternative, a clear statement describing the  
4 location in the offer where the odds can be found. The odds shall  
5 be stated in whole Arabic numbers in a format such as: “1 chance  
6 in 100,000” or “1:100,000.” The odds and, where applicable, the  
7 alternative statement describing their location, shall be printed in  
8 a type size that is at least equal to that used for the standard text  
9 on the front (or first) page of the offer.

10 (D) A clear statement, if applicable, that the offer is subject to  
11 specific restrictions, qualifications, and conditions and a statement  
12 describing the location in the offer where the restrictions,  
13 qualifications, and conditions may be found. Both statements shall  
14 be printed in a type size that is at least equal to that used for the  
15 standard text on the front (or first) page of the offer.

16 (2) The following disclosures shall appear in the offer, but need  
17 not appear on the front (or first) page of the offer:

18 (A) Unless the odds are disclosed on the front (or first) page of  
19 the offer, a statement of the odds of receiving each incentive  
20 offered, printed in the size and format set forth in subparagraph  
21 (C) of paragraph (1).

22 (B) All restrictions, qualifications, and other conditions which  
23 must be satisfied before the recipient is entitled to receive the  
24 incentive, including but not limited to:

25 (i) Any deadline by which the recipient must visit the location,  
26 attend the sales presentation, or contact the sales agent in order to  
27 receive an incentive.

28 (ii) Any other conditions, such as a minimum age qualification,  
29 a financial qualification, or a requirement that if the recipient is  
30 married both ~~husband and wife~~ *spouses* must be present in order  
31 to receive the incentive. Any financial qualifications shall be stated  
32 with a specificity sufficient to enable the recipient to reasonably  
33 determine his or her eligibility.

34 (C) A statement that the owner or provider identified pursuant  
35 to subparagraph (A) of paragraph (1) reserves the right to provide  
36 a raincheck, or a substitute or like incentive, if those rights are  
37 reserved.

38 (D) A statement that a recipient who receives an offered  
39 incentive may request and will receive evidence showing that the

1 incentive provided matches the incentive randomly or otherwise  
2 selected for distribution to that recipient.

3 (E) All other rules, terms, and conditions of the offer, plan, or  
4 program.

5 (b) It is unlawful for any person making an offer subject to  
6 subdivision (a), or any employee, agent, or independent contractor  
7 employed or authorized by that person, to offer any incentive when  
8 the person knows or has reason to know that the offered item will  
9 not be available in a sufficient quantity based upon the reasonably  
10 anticipated response to the offer.

11 (c) It is unlawful for any person making an offer subject to  
12 subdivision (a), or any employee, agent, or independent contractor  
13 employed or authorized by that person, to fail to provide any  
14 offered incentive which any recipient who has responded to the  
15 offer in the manner specified therein, who has performed the  
16 requirements disclosed therein, and who has met the qualifications  
17 described therein, is entitled to receive, unless the offered incentive  
18 is not reasonably available and the offer discloses the reservation  
19 of a right to provide a raincheck, or a like or substitute incentive,  
20 if the offered incentive is unavailable.

21 (d) If the person making an offer subject to subdivision (a) is  
22 unable to provide an offered incentive because of limitations of  
23 supply, quantity, or quality that were not reasonably foreseeable  
24 or controllable by the person making the offer, the person making  
25 the offer shall inform the recipient of the recipient's right to receive  
26 a raincheck for the incentive offered, unless the person making  
27 the offer knows or has reasonable basis for knowing that the  
28 incentive will not be reasonably available and shall inform the  
29 recipient of the recipient's right to at least one of the following  
30 additional options:

31 (1) The person making the offer will provide a like incentive  
32 of equivalent or greater retail value or a raincheck therefor.

33 (2) The person making the offer will provide a substitute  
34 incentive of equivalent or greater retail value.

35 (3) The person making the offer will provide a raincheck for  
36 the like or substitute incentive.

37 (e) If a raincheck is provided, the person making an offer subject  
38 to subdivision (a) shall, within a reasonable time, and in no event  
39 later than 80 days, deliver the agreed incentive to the recipient's  
40 address without additional cost or obligation to the recipient, unless

1 the incentive for which the raincheck is provided remains  
2 unavailable because of limitations of supply, quantity, or quality  
3 not reasonably foreseeable or controllable by the person making  
4 the offer. In that case, the person making the offer shall, not later  
5 than 30 days after the expiration of the 80 days, deliver a like  
6 incentive of equal or greater retail value or, if an incentive is not  
7 reasonably available to the person making the offer, a substitute  
8 incentive of equal or greater retail value.

9 (f) Upon the request of a recipient who has received or claims  
10 a right to receive any offered incentive, the person making an offer  
11 subject to subdivision (a) shall furnish to the person sufficient  
12 evidence showing that the incentive provided matches the incentive  
13 randomly or otherwise selected for distribution to that recipient.

14 (g) It is unlawful for any person making an offer subject to  
15 subdivision (a), or any employee, agent, or independent contractor  
16 employed or authorized by that person, to:

17 (1) Use any printing styles, graphics, layouts, text, colors, or  
18 formats on envelopes or on the offer which, implies, creates an  
19 appearance, or would lead a reasonable person to believe, that the  
20 offer originates from or is issued by or on behalf of a government  
21 or public agency, public utility, public organization, insurance  
22 company, credit reporting agency, bill collecting company or law  
23 firm, unless the same is true.

24 (2) Misrepresent the size, quantity, identity, value, or qualities  
25 of any incentive.

26 (3) Misrepresent in any manner the odds of receiving any  
27 particular incentive.

28 (4) Represent directly or by implication that the number of  
29 participants has been significantly limited or that any person has  
30 been selected to receive a particular incentive unless that is the  
31 fact.

32 (5) Label any offer a notice of termination or notice of  
33 cancellation.

34 (6) Misrepresent, in any manner, the offer, plan, program or the  
35 affiliation, connection, association, or contractual relationship  
36 between the person making the offer and the owner or provider,  
37 if they are not the same.

38 (h) If the major incentives are awarded or given at random, by  
39 the assignment of a number to the incentives, that number shall  
40 be actually assigned by the party contractually responsible for

1 doing so. The person making an offer subject to subdivision (a)  
2 hereof, or the agent, employee, or independent contractor employed  
3 or authorized by that person, if any, shall maintain, for a period of  
4 one year after the date the offer is made, the records that show that  
5 the winning numbers or opportunity to receive the major incentives  
6 have been deposited in the mail or otherwise made available to  
7 recipients in accordance with the odds statement provided pursuant  
8 to subparagraph (C) of paragraph (1) of subdivision (a) hereof.  
9 The records shall be made available to the Attorney General within  
10 30 days after written request therefor. Postal receipt records,  
11 affidavits of mailing, or a list of winners or recipients of the major  
12 incentives shall be deemed to satisfy the requirements of this  
13 section.

14 SEC. 3. Section 50 of the Civil Code is amended to read:

15 ~~[50.] Section Fifty.~~

16 50. Any necessary force may be used to protect from wrongful  
17 injury the person or property of oneself, or of a ~~wife, husband,~~  
18 *spouse*, child, parent, or other relative, or member of one's family,  
19 or of a ward, servant, master, or guest.

20 SEC. 4. Section 51.3 of the Civil Code is amended to read:

21 51.3. (a) The Legislature finds and declares that this section  
22 is essential to establish and preserve specially designed accessible  
23 housing for senior citizens. There are senior citizens who need  
24 special living environments and services, and find that there is an  
25 inadequate supply of this type of housing in the state.

26 (b) For the purposes of this section, the following definitions  
27 apply:

28 (1) "Qualifying resident" or "senior citizen" means a person 62  
29 years of age or older, or 55 years of age or older in a senior citizen  
30 housing development.

31 (2) "Qualified permanent resident" means a person who meets  
32 both of the following requirements:

33 (A) Was residing with the qualifying resident or senior citizen  
34 prior to the death, hospitalization, or other prolonged absence of,  
35 or the dissolution of marriage with, the qualifying resident or senior  
36 citizen.

37 (B) Was 45 years of age or older, or was a spouse, cohabitant,  
38 or person providing primary physical or economic support to the  
39 qualifying resident or senior citizen.

1 (3) “Qualified permanent resident” also means a disabled person  
2 or person with a disabling illness or injury who is a child or  
3 grandchild of the senior citizen or a qualified permanent resident  
4 as defined in paragraph (2) who needs to live with the senior citizen  
5 or qualified permanent resident because of the disabling condition,  
6 illness, or injury. For purposes of this section, “disabled” means  
7 a person who has a disability as defined in subdivision (b) of  
8 Section 54. A “disabling injury or illness” means an illness or  
9 injury which results in a condition meeting the definition of  
10 disability set forth in subdivision (b) of Section 54.

11 (A) For any person who is a qualified permanent resident under  
12 this paragraph whose disabling condition ends, the owner, board  
13 of directors, or other governing body may require the formerly  
14 disabled resident to cease residing in the development upon receipt  
15 of six months’ written notice; provided, however, that the owner,  
16 board of directors, or other governing body may allow the person  
17 to remain a resident for up to one year after the disabling condition  
18 ends.

19 (B) The owner, board of directors, or other governing body of  
20 the senior citizen housing development may take action to prohibit  
21 or terminate occupancy by a person who is a qualified permanent  
22 resident under this paragraph if the owner, board of directors, or  
23 other governing body finds, based on credible and objective  
24 evidence, that the person is likely to pose a significant threat to  
25 the health or safety of others that cannot be ameliorated by means  
26 of a reasonable accommodation; provided, however, that the action  
27 to prohibit or terminate the occupancy may be taken only after  
28 doing both of the following:

29 (i) Providing reasonable notice to and an opportunity to be heard  
30 for the disabled person whose occupancy is being challenged, and  
31 reasonable notice to the coresident parent or grandparent of that  
32 person.

33 (ii) Giving due consideration to the relevant, credible, and  
34 objective information provided in the hearing. The evidence shall  
35 be taken and held in a confidential manner, pursuant to a closed  
36 session, by the owner, board of directors, or other governing body  
37 in order to preserve the privacy of the affected persons.

38 The affected persons shall be entitled to have present at the  
39 hearing an attorney or any other person authorized by them to  
40 speak on their behalf or to assist them in the matter.

1 (4) “Senior citizen housing development” means a residential  
2 development developed, substantially rehabilitated, or substantially  
3 renovated for, senior citizens that has at least 35 dwelling units.  
4 Any senior citizen housing development which is required to obtain  
5 a public report under Section 11010 of the Business and Professions  
6 Code and which submits its application for a public report after  
7 July 1, 2001, shall be required to have been issued a public report  
8 as a senior citizen housing development under Section 11010.05  
9 of the Business and Professions Code. No housing development  
10 constructed prior to January 1, 1985, shall fail to qualify as a senior  
11 citizen housing development because it was not originally  
12 developed or put to use for occupancy by senior citizens.

13 (5) “Dwelling unit” or “housing” means any residential  
14 accommodation other than a mobilehome.

15 (6) “Cohabitant” refers to persons who live together as ~~husband~~  
16 ~~and wife~~, *spouses* or persons who are domestic partners within the  
17 meaning of Section 297 of the Family Code.

18 (7) “Permitted health care resident” means a person hired to  
19 provide live-in, long-term, or terminal health care to a qualifying  
20 resident, or a family member of the qualifying resident providing  
21 that care. For the purposes of this section, the care provided by a  
22 permitted health care resident must be substantial in nature and  
23 must provide either assistance with necessary daily activities or  
24 medical treatment, or both.

25 A permitted health care resident shall be entitled to continue his  
26 or her occupancy, residency, or use of the dwelling unit as a  
27 permitted resident in the absence of the senior citizen from the  
28 dwelling unit only if both of the following are applicable:

29 (A) The senior citizen became absent from the dwelling due to  
30 hospitalization or other necessary medical treatment and expects  
31 to return to his or her residence within 90 days from the date the  
32 absence began.

33 (B) The absent senior citizen or an authorized person acting for  
34 the senior citizen submits a written request to the owner, board of  
35 directors, or governing board stating that the senior citizen desires  
36 that the permitted health care resident be allowed to remain in  
37 order to be present when the senior citizen returns to reside in the  
38 development.

39 Upon written request by the senior citizen or an authorized  
40 person acting for the senior citizen, the owner, board of directors,

1 or governing board shall have the discretion to allow a permitted  
2 health care resident to remain for a time period longer than 90 days  
3 from the date that the senior citizen's absence began, if it appears  
4 that the senior citizen will return within a period of time not to  
5 exceed an additional 90 days.

6 (c) The covenants, conditions, and restrictions and other  
7 documents or written policy shall set forth the limitations on  
8 occupancy, residency, or use on the basis of age. Any such  
9 limitation shall not be more exclusive than to require that one  
10 person in residence in each dwelling unit may be required to be a  
11 senior citizen and that each other resident in the same dwelling  
12 unit may be required to be a qualified permanent resident, a  
13 permitted health care resident, or a person under 55 years of age  
14 whose occupancy is permitted under subdivision (h) of this section  
15 or under subdivision (b) of Section 51.4. That limitation may be  
16 less exclusive, but shall at least require that the persons  
17 commencing any occupancy of a dwelling unit include a senior  
18 citizen who intends to reside in the unit as his or her primary  
19 residence on a permanent basis. The application of the rules set  
20 forth in this subdivision regarding limitations on occupancy may  
21 result in less than all of the dwellings being actually occupied by  
22 a senior citizen.

23 (d) The covenants, conditions, and restrictions or other  
24 documents or written policy shall permit temporary residency, as  
25 a guest of a senior citizen or qualified permanent resident, by a  
26 person of less than 55 years of age for periods of time, not less  
27 than 60 days in any year, that are specified in the covenants,  
28 conditions, and restrictions or other documents or written policy.

29 (e) Upon the death or dissolution of marriage, or upon  
30 hospitalization, or other prolonged absence of the qualifying  
31 resident, any qualified permanent resident shall be entitled to  
32 continue his or her occupancy, residency, or use of the dwelling  
33 unit as a permitted resident. This subdivision shall not apply to a  
34 permitted health care resident.

35 (f) The condominium, stock cooperative, limited-equity housing  
36 cooperative, planned development, or multiple-family residential  
37 rental property shall have been developed for, and initially been  
38 put to use as, housing for senior citizens, or shall have been  
39 substantially rehabilitated or renovated for, and immediately  
40 afterward put to use as, housing for senior citizens, as provided in

1 this section; provided, however, that no housing development  
2 constructed prior to January 1, 1985, shall fail to qualify as a senior  
3 citizen housing development because it was not originally  
4 developed for or originally put to use for occupancy by senior  
5 citizens.

6 (g) The covenants, conditions, and restrictions or other  
7 documents or written policies applicable to any condominium,  
8 stock cooperative, limited-equity housing cooperative, planned  
9 development, or multiple-family residential property that contained  
10 age restrictions on January 1, 1984, shall be enforceable only to  
11 the extent permitted by this section, notwithstanding lower age  
12 restrictions contained in those documents or policies.

13 (h) Any person who has the right to reside in, occupy, or use  
14 the housing or an unimproved lot subject to this section on January  
15 1, 1985, shall not be deprived of the right to continue that  
16 residency, occupancy, or use as the result of the enactment of this  
17 section.

18 (i) The covenants, conditions, and restrictions or other  
19 documents or written policy of the senior citizen housing  
20 development shall permit the occupancy of a dwelling unit by a  
21 permitted health care resident during any period that the person is  
22 actually providing live-in, long-term, or hospice health care to a  
23 qualifying resident for compensation. For purposes of this  
24 subdivision, the term “for compensation” shall include provisions  
25 of lodging and food in exchange for care.

26 (j) Notwithstanding any other provision of this section, this  
27 section shall not apply to the County of Riverside.

28 SEC. 5. Section 51.11 of the Civil Code is amended to read:

29 51.11. (a) The Legislature finds and declares that this section  
30 is essential to establish and preserve housing for senior citizens.  
31 There are senior citizens who need special living environments,  
32 and find that there is an inadequate supply of this type of housing  
33 in the state.

34 (b) For the purposes of this section, the following definitions  
35 apply:

36 (1) “Qualifying resident” or “senior citizen” means a person 62  
37 years of age or older, or 55 years of age or older in a senior citizen  
38 housing development.

39 (2) “Qualified permanent resident” means a person who meets  
40 both of the following requirements:

1 (A) Was residing with the qualifying resident or senior citizen  
2 prior to the death, hospitalization, or other prolonged absence of,  
3 or the dissolution of marriage with, the qualifying resident or senior  
4 citizen.

5 (B) Was 45 years of age or older, or was a spouse, cohabitant,  
6 or person providing primary physical or economic support to the  
7 qualifying resident or senior citizen.

8 (3) “Qualified permanent resident” also means a disabled person  
9 or person with a disabling illness or injury who is a child or  
10 grandchild of the senior citizen or a qualified permanent resident  
11 as defined in paragraph (2) who needs to live with the senior citizen  
12 or qualified permanent resident because of the disabling condition,  
13 illness, or injury. For purposes of this section, “disabled” means  
14 a person who has a disability as defined in subdivision (b) of  
15 Section 54. A “disabling injury or illness” means an illness or  
16 injury which results in a condition meeting the definition of  
17 disability set forth in subdivision (b) of Section 54.

18 (A) For any person who is a qualified permanent resident under  
19 paragraph (3) whose disabling condition ends, the owner, board  
20 of directors, or other governing body may require the formerly  
21 disabled resident to cease residing in the development upon receipt  
22 of six months’ written notice; provided, however, that the owner,  
23 board of directors, or other governing body may allow the person  
24 to remain a resident for up to one year, after the disabling condition  
25 ends.

26 (B) The owner, board of directors, or other governing body of  
27 the senior citizen housing development may take action to prohibit  
28 or terminate occupancy by a person who is a qualified permanent  
29 resident under paragraph (3) if the owner, board of directors, or  
30 other governing body finds, based on credible and objective  
31 evidence, that the person is likely to pose a significant threat to  
32 the health or safety of others that cannot be ameliorated by means  
33 of a reasonable accommodation; provided, however, that action  
34 to prohibit or terminate the occupancy may be taken only after  
35 doing both of the following:

36 (i) Providing reasonable notice to and an opportunity to be heard  
37 for the disabled person whose occupancy is being challenged, and  
38 reasonable notice to the coresident parent or grandparent of that  
39 person.

1 (ii) Giving due consideration to the relevant, credible, and  
2 objective information provided in that hearing. The evidence shall  
3 be taken and held in a confidential manner, pursuant to a closed  
4 session, by the owner, board of directors, or other governing body  
5 in order to preserve the privacy of the affected persons.

6 The affected persons shall be entitled to have present at the  
7 hearing an attorney or any other person authorized by them to  
8 speak on their behalf or to assist them in the matter.

9 (4) “Senior citizen housing development” means a residential  
10 development developed with more than 20 units as a senior  
11 community by its developer and zoned as a senior community by  
12 a local governmental entity, or characterized as a senior community  
13 in its governing documents, as these are defined in Section 4150,  
14 or qualified as a senior community under the federal Fair Housing  
15 Amendments Act of 1988, as amended. Any senior citizen housing  
16 development which is required to obtain a public report under  
17 Section 11010 of the Business and Professions Code and which  
18 submits its application for a public report after July 1, 2001, shall  
19 be required to have been issued a public report as a senior citizen  
20 housing development under Section 11010.05 of the Business and  
21 Professions Code.

22 (5) “Dwelling unit” or “housing” means any residential  
23 accommodation other than a mobilehome.

24 (6) “Cohabitant” refers to persons who live together as ~~husband~~  
25 ~~and wife~~, *spouses* or persons who are domestic partners within the  
26 meaning of Section 297 of the Family Code.

27 (7) “Permitted health care resident” means a person hired to  
28 provide live-in, long-term, or terminal health care to a qualifying  
29 resident, or a family member of the qualifying resident providing  
30 that care. For the purposes of this section, the care provided by a  
31 permitted health care resident must be substantial in nature and  
32 must provide either assistance with necessary daily activities or  
33 medical treatment, or both.

34 A permitted health care resident shall be entitled to continue his  
35 or her occupancy, residency, or use of the dwelling unit as a  
36 permitted resident in the absence of the senior citizen from the  
37 dwelling unit only if both of the following are applicable:

38 (A) The senior citizen became absent from the dwelling due to  
39 hospitalization or other necessary medical treatment and expects

1 to return to his or her residence within 90 days from the date the  
2 absence began.

3 (B) The absent senior citizen or an authorized person acting for  
4 the senior citizen submits a written request to the owner, board of  
5 directors, or governing board stating that the senior citizen desires  
6 that the permitted health care resident be allowed to remain in  
7 order to be present when the senior citizen returns to reside in the  
8 development.

9 Upon written request by the senior citizen or an authorized  
10 person acting for the senior citizen, the owner, board of directors,  
11 or governing board shall have the discretion to allow a permitted  
12 health care resident to remain for a time period longer than 90 days  
13 from the date that the senior citizen's absence began, if it appears  
14 that the senior citizen will return within a period of time not to  
15 exceed an additional 90 days.

16 (c) The covenants, conditions, and restrictions and other  
17 documents or written policy shall set forth the limitations on  
18 occupancy, residency, or use on the basis of age. Any limitation  
19 shall not be more exclusive than to require that one person in  
20 residence in each dwelling unit may be required to be a senior  
21 citizen and that each other resident in the same dwelling unit may  
22 be required to be a qualified permanent resident, a permitted health  
23 care resident, or a person under 55 years of age whose occupancy  
24 is permitted under subdivision (g) of this section or subdivision  
25 (b) of Section 51.12. That limitation may be less exclusive, but  
26 shall at least require that the persons commencing any occupancy  
27 of a dwelling unit include a senior citizen who intends to reside in  
28 the unit as his or her primary residence on a permanent basis. The  
29 application of the rules set forth in this subdivision regarding  
30 limitations on occupancy may result in less than all of the dwellings  
31 being actually occupied by a senior citizen.

32 (d) The covenants, conditions, and restrictions or other  
33 documents or written policy shall permit temporary residency, as  
34 a guest of a senior citizen or qualified permanent resident, by a  
35 person of less than 55 years of age for periods of time, not more  
36 than 60 days in any year, that are specified in the covenants,  
37 conditions, and restrictions or other documents or written policy.

38 (e) Upon the death or dissolution of marriage, or upon  
39 hospitalization, or other prolonged absence of the qualifying  
40 resident, any qualified permanent resident shall be entitled to

1 continue his or her occupancy, residency, or use of the dwelling  
2 unit as a permitted resident. This subdivision shall not apply to a  
3 permitted health care resident.

4 (f) The covenants, conditions, and restrictions or other  
5 documents or written policies applicable to any condominium,  
6 stock cooperative, limited-equity housing cooperative, planned  
7 development, or multiple-family residential property that contained  
8 age restrictions on January 1, 1984, shall be enforceable only to  
9 the extent permitted by this section, notwithstanding lower age  
10 restrictions contained in those documents or policies.

11 (g) Any person who has the right to reside in, occupy, or use  
12 the housing or an unimproved lot subject to this section on or after  
13 January 1, 1985, shall not be deprived of the right to continue that  
14 residency, occupancy, or use as the result of the enactment of this  
15 section by Chapter 1147 of the Statutes of 1996.

16 (h) A housing development may qualify as a senior citizen  
17 housing development under this section even though, as of January  
18 1, 1997, it does not meet the definition of a senior citizen housing  
19 development specified in subdivision (b), if the development  
20 complies with that definition for every unit that becomes occupied  
21 after January 1, 1997, and if the development was once within that  
22 definition, and then became noncompliant with the definition as  
23 the result of any one of the following:

24 (1) The development was ordered by a court or a local, state,  
25 or federal enforcement agency to allow persons other than  
26 qualifying residents, qualified permanent residents, or permitted  
27 health care residents to reside in the development.

28 (2) The development received a notice of a pending or proposed  
29 action in, or by, a court, or a local, state, or federal enforcement  
30 agency, which action could have resulted in the development being  
31 ordered by a court or a state or federal enforcement agency to allow  
32 persons other than qualifying residents, qualified permanent  
33 residents, or permitted health care residents to reside in the  
34 development.

35 (3) The development agreed to allow persons other than  
36 qualifying residents, qualified permanent residents, or permitted  
37 health care residents to reside in the development by entering into  
38 a stipulation, conciliation agreement, or settlement agreement with  
39 a local, state, or federal enforcement agency or with a private party  
40 who had filed, or indicated an intent to file, a complaint against

1 the development with a local, state, or federal enforcement agency,  
2 or file an action in a court.

3 (4) The development allowed persons other than qualifying  
4 residents, qualified permanent residents, or permitted health care  
5 residents to reside in the development on the advice of counsel in  
6 order to prevent the possibility of an action being filed by a private  
7 party or by a local, state, or federal enforcement agency.

8 (i) The covenants, conditions, and restrictions or other  
9 documents or written policy of the senior citizen housing  
10 development shall permit the occupancy of a dwelling unit by a  
11 permitted health care resident during any period that the person is  
12 actually providing live-in, long-term, or hospice health care to a  
13 qualifying resident for compensation.

14 (j) This section shall only apply to the County of Riverside.

15 SEC. 6. Section 682 of the Civil Code is amended to read:

16 682. The ownership of property by several persons is either:

- 17 1. Of joint interest;
- 18 2. Of partnership interests;
- 19 3. Of interests in common;
- 20 4. Of community interest of ~~husband and wife~~; *spouses*.

21 SEC. 7. Section 682.1 of the Civil Code is amended to read:

22 682.1. (a) Community property of ~~a husband and wife~~; *spouses*,  
23 when expressly declared in the transfer document to be community  
24 property with right of survivorship, and which may be accepted  
25 in writing on the face of the document by a statement signed or  
26 initialed by the grantees, shall, upon the death of one of the  
27 spouses, pass to the survivor, without administration, pursuant to  
28 the terms of the instrument, subject to the same procedures, as  
29 property held in joint tenancy. Prior to the death of either spouse,  
30 the right of survivorship may be terminated pursuant to the same  
31 procedures by which a joint tenancy may be severed. Part I  
32 (commencing with Section 5000) of Division 5 of the Probate  
33 Code and Chapter 2 (commencing with Section 13540), Chapter  
34 3 (commencing with Section 13550) and Chapter 3.5 (commencing  
35 with Section 13560) of Part 2 of Division 8 of the Probate Code  
36 apply to this property.

37 (b) This section does not apply to a joint account in a financial  
38 institution to which Part 2 (commencing with Section 5100) of  
39 Division 5 of the Probate Code applies.

1 (c) This section shall become operative on July 1, 2001, and  
2 shall apply to instruments created on or after that date.

3 SEC. 8. Section 683 of the Civil Code is amended to read:

4 683. (a) A joint interest is one owned by two or more persons  
5 in equal shares, by a title created by a single will or transfer, when  
6 expressly declared in the will or transfer to be a joint tenancy, or  
7 by transfer from a sole owner to himself or herself and others, or  
8 from tenants in common or joint tenants to themselves or some of  
9 them, or to themselves or any of them and others, or from ~~a~~  
10 ~~husband and wife~~, *spouses*, when holding title as community  
11 property or otherwise to themselves or to themselves and others  
12 or to one of them and to another or others, when expressly declared  
13 in the transfer to be a joint tenancy, or when granted or devised to  
14 executors or trustees as joint tenants. A joint tenancy in personal  
15 property may be created by a written transfer, instrument, or  
16 agreement.

17 (b) Provisions of this section do not apply to a joint account in  
18 a financial institution if Part 2 (commencing with Section 5100)  
19 of Division 5 of the Probate Code applies to such account.

20 SEC. 9. Section 1099 of the Civil Code is amended to read:

21 1099. (a) As soon as practical before transfer of title of any  
22 real property or the execution of a real property sales contract as  
23 defined in Section 2985, the transferor, fee owner, or his agent,  
24 shall deliver to the transferee a copy of a structural pest control  
25 inspection report prepared pursuant to Section 8516 of the Business  
26 and Professions Code upon which any certification in accordance  
27 with Section 8519 of the Business and Professions Code may be  
28 made, provided that certification or preparation of a report is a  
29 condition of the contract effecting that transfer, or is a requirement  
30 imposed as a condition of financing such transfer.

31 (b) If a notice of work completed as contemplated by Section  
32 8518 of the Business and Professions Code, indicating action by  
33 a structural pest control licensee in response to an inspection report  
34 delivered or to be delivered under provisions of subdivision (a),  
35 or a certification pursuant to Section 8519 of the Business and  
36 Professions Code, has been received by a transferor or his agent  
37 before transfer of title or execution of a real property sales contract  
38 as defined in Section 2985, it shall be furnished to the transferee  
39 as soon as practical before transfer of title or the execution of such  
40 real property sales contract.

1 (c) Delivery to a transferee as used in this section means delivery  
2 in person or by mail to the transferee himself or any person  
3 authorized to act for him in the transaction or to such additional  
4 transferees who have requested such delivery from the transferor  
5 or his agent in writing. For the purposes of this section, delivery  
6 to either ~~husband or wife~~ *spouse* shall be deemed delivery to a  
7 transferee, unless the contract affecting the transfer states  
8 otherwise.

9 (d) No transfer of title of real property shall be invalidated solely  
10 because of the failure of any person to comply with the provisions  
11 of this section unless such failure is an act or omission which would  
12 be a valid ground for rescission of such transfer in the absence of  
13 this section.

14 SEC. 10. Section 1569 of the Civil Code is amended to read:

15 1569. Duress consists in:

16 1. Unlawful confinement of the person of the party, or of the  
17 ~~husband or wife~~ *spouse* of such party, or of an ancestor, descendant,  
18 or adopted child of such ~~party, husband, or wife;~~ *party or spouse;*

19 2. Unlawful detention of the property of any such person; or,

20 3. Confinement of such person, lawful in form, but fraudulently  
21 obtained, or fraudulently made unjustly ~~harrasing~~ *harassing* or  
22 oppressive.

23 SEC. 11. Section 3390 of the Civil Code is amended to read:

24 3390. The following obligations cannot be specifically  
25 enforced:

26 1. An obligation to render personal service;

27 2. An obligation to employ another in personal service;

28 3. An agreement to perform an act which the party has not power  
29 lawfully to perform when required to do so;

30 4. An agreement to procure the act or consent of the ~~wife~~ *spouse*  
31 of the contracting party, or of any other third person; or,

32 5. An agreement, the terms of which are not sufficiently certain  
33 to make the precise act which is to be done clearly ascertainable.

34 SEC. 12. Section 371 of the Code of Civil Procedure is  
35 amended to read:

36 371. If a ~~husband and wife~~ *spouses* are sued together, each may  
37 defend for his or her own right, but if one spouse neglects to  
38 defend, the other spouse may defend for that spouse's right also.

39 SEC. 13. Section 116.540 of the Code of Civil Procedure is  
40 amended to read:

1 116.540. (a) Except as permitted by this section, no individual  
2 other than the plaintiff and the defendant may take part in the  
3 conduct or defense of a small claims action.

4 (b) Except as additionally provided in subdivision (i), a  
5 corporation may appear and participate in a small claims action  
6 only through a regular employee, or a duly appointed or elected  
7 officer or director, who is employed, appointed, or elected for  
8 purposes other than solely representing the corporation in small  
9 claims court.

10 (c) A party who is not a corporation or a natural person may  
11 appear and participate in a small claims action only through a  
12 regular employee, or a duly appointed or elected officer or director,  
13 or in the case of a partnership, a partner, engaged for purposes  
14 other than solely representing the party in small claims court.

15 (d) If a party is an individual doing business as a sole  
16 proprietorship, the party may appear and participate in a small  
17 claims action by a representative and without personally appearing  
18 if both of the following conditions are met:

19 (1) The claim can be proved or disputed by evidence of an  
20 account that constitutes a business record as defined in Section  
21 1271 of the Evidence Code, and there is no other issue of fact in  
22 the case.

23 (2) The representative is a regular employee of the party for  
24 purposes other than solely representing the party in small claims  
25 actions and is qualified to testify to the identity and mode of  
26 preparation of the business record.

27 (e) A plaintiff is not required to personally appear, and may  
28 submit declarations to serve as evidence supporting his or her claim  
29 or allow another individual to appear and participate on his or her  
30 behalf, if (1) the plaintiff is serving on active duty in the United  
31 States Armed Forces outside this state, (2) the plaintiff was  
32 assigned to his or her duty station after his or her claim arose, (3)  
33 the assignment is for more than six months, (4) the representative  
34 is serving without compensation, and (5) the representative has  
35 appeared in small claims actions on behalf of others no more than  
36 four times during the calendar year. The defendant may file a claim  
37 in the same action in an amount not to exceed the jurisdictional  
38 limits stated in Sections 116.220, 116.221, and 116.231.

39 (f) A party incarcerated in a county jail, a Department of  
40 Corrections and Rehabilitation facility, or a Division of Juvenile

1 Facilities facility is not required to personally appear, and may  
2 submit declarations to serve as evidence supporting his or her  
3 claim, or may authorize another individual to appear and participate  
4 on his or her behalf if that individual is serving without  
5 compensation and has appeared in small claims actions on behalf  
6 of others no more than four times during the calendar year.

7 (g) A defendant who is a nonresident owner of real property  
8 may defend against a claim relating to that property without  
9 personally appearing by (1) submitting written declarations to  
10 serve as evidence supporting his or her defense, (2) allowing  
11 another individual to appear and participate on his or her behalf if  
12 that individual is serving without compensation and has appeared  
13 in small claims actions on behalf of others no more than four times  
14 during the calendar year, or (3) taking the action described in both  
15 (1) and (2).

16 (h) A party who is an owner of rental real property may appear  
17 and participate in a small claims action through a property agent  
18 under contract with the owner to manage the rental of that property,  
19 if (1) the owner has retained the property agent principally to  
20 manage the rental of that property and not principally to represent  
21 the owner in small claims court, and (2) the claim relates to the  
22 rental property.

23 (i) A party that is an association created to manage a common  
24 interest development, as defined in Section 4100 or in Sections  
25 6528 and 6534 of the Civil Code, may appear and participate in a  
26 small claims action through an agent, a management company  
27 representative, or bookkeeper who appears on behalf of that  
28 association.

29 (j) At the hearing of a small claims action, the court shall require  
30 any individual who is appearing as a representative of a party under  
31 subdivisions (b) to (i), inclusive, to file a declaration stating (1)  
32 that the individual is authorized to appear for the party, and (2)  
33 the basis for that authorization. If the representative is appearing  
34 under subdivision (b), (c), (d), (h), or (i), the declaration also shall  
35 state that the individual is not employed solely to represent the  
36 party in small claims court. If the representative is appearing under  
37 subdivision (e), (f), or (g), the declaration also shall state that the  
38 representative is serving without compensation, and has appeared  
39 in small claims actions on behalf of others no more than four times  
40 during the calendar year.

1 (k) A ~~husband or wife~~ *spouse* who sues or who is sued with his  
2 or her spouse may appear and participate on behalf of his or her  
3 spouse if (1) the claim is a joint claim, (2) the represented spouse  
4 has given his or her consent, and (3) the court determines that the  
5 interests of justice would be served.

6 (l) If the court determines that a party cannot properly present  
7 his or her claim or defense and needs assistance, the court may in  
8 its discretion allow another individual to assist that party.

9 (m) Nothing in this section shall operate or be construed to  
10 authorize an attorney to participate in a small claims action except  
11 as expressly provided in Section 116.530.

12 SEC. 14. Section 703.140 of the Code of Civil Procedure is  
13 amended to read:

14 703.140. (a) In a case under Title 11 of the United States Code,  
15 all of the exemptions provided by this chapter, including the  
16 homestead exemption, other than the provisions of subdivision (b)  
17 are applicable regardless of whether there is a money judgment  
18 against the debtor or whether a money judgment is being enforced  
19 by execution sale or any other procedure, but the exemptions  
20 provided by subdivision (b) may be elected in lieu of all other  
21 exemptions provided by this chapter, as follows:

22 (1) If a ~~husband and wife~~ *spouses* are joined in the petition, they  
23 jointly may elect to utilize the applicable exemption provisions of  
24 this chapter other than the provisions of subdivision (b), or to  
25 utilize the applicable exemptions set forth in subdivision (b), but  
26 not both.

27 (2) If the petition is filed individually, and not jointly, for a  
28 ~~husband or a wife,~~ *spouse*, the exemptions provided by this chapter  
29 other than the provisions of subdivision (b) are applicable, except  
30 that, if both ~~the husband and the wife~~ *of the spouses* effectively  
31 waive in writing the right to claim, during the period the case  
32 commenced by filing the petition is pending, the exemptions  
33 provided by the applicable exemption provisions of this chapter,  
34 other than subdivision (b), in any case commenced by filing a  
35 petition for either of them under Title 11 of the United States Code,  
36 then they may elect to instead utilize the applicable exemptions  
37 set forth in subdivision (b).

38 (3) If the petition is filed for an unmarried person, that person  
39 may elect to utilize the applicable exemption provisions of this

1 chapter other than subdivision (b), or to utilize the applicable  
2 exemptions set forth in subdivision (b), but not both.

3 (b) The following exemptions may be elected as provided in  
4 subdivision (a):

5 (1) The debtor’s aggregate interest, not to exceed twenty-four  
6 thousand sixty dollars (\$24,060) in value, in real property or  
7 personal property that the debtor or a dependent of the debtor uses  
8 as a residence, in a cooperative that owns property that the debtor  
9 or a dependent of the debtor uses as a residence.

10 (2) The debtor’s interest, not to exceed four thousand eight  
11 hundred dollars (\$4,800) in value, in one or more motor vehicles.

12 (3) The debtor’s interest, not to exceed six hundred dollars  
13 (\$600) in value in any particular item, in household furnishings,  
14 household goods, wearing apparel, appliances, books, animals,  
15 crops, or musical instruments, that are held primarily for the  
16 personal, family, or household use of the debtor or a dependent of  
17 the debtor.

18 (4) The debtor’s aggregate interest, not to exceed one thousand  
19 four hundred twenty-five dollars (\$1,425) in value, in jewelry held  
20 primarily for the personal, family, or household use of the debtor  
21 or a dependent of the debtor.

22 (5) The debtor’s aggregate interest, not to exceed in value one  
23 thousand two hundred eighty dollars (\$1,280) plus any unused  
24 amount of the exemption provided under paragraph (1), in any  
25 property.

26 (6) The debtor’s aggregate interest, not to exceed seven thousand  
27 one hundred seventy-five dollars (\$7,175) in value, in any  
28 implements, professional books, or tools of the trade of the debtor  
29 or the trade of a dependent of the debtor.

30 (7) Any unmaturred life insurance contract owned by the debtor,  
31 other than a credit life insurance contract.

32 (8) The debtor’s aggregate interest, not to exceed in value twelve  
33 thousand eight hundred sixty dollars (\$12,860), in any accrued  
34 dividend or interest under, or loan value of, any unmaturred life  
35 insurance contract owned by the debtor under which the insured  
36 is the debtor or an individual of whom the debtor is a dependent.

37 (9) Professionally prescribed health aids for the debtor or a  
38 dependent of the debtor.

39 (10) The debtor’s right to receive any of the following:

1 (A) A social security benefit, unemployment compensation, or  
2 a local public assistance benefit.

3 (B) A veterans' benefit.

4 (C) A disability, illness, or unemployment benefit.

5 (D) Alimony, support, or separate maintenance, to the extent  
6 reasonably necessary for the support of the debtor and any  
7 dependent of the debtor.

8 (E) A payment under a stock bonus, pension, profit-sharing,  
9 annuity, or similar plan or contract on account of illness, disability,  
10 death, age, or length of service, to the extent reasonably necessary  
11 for the support of the debtor and any dependent of the debtor,  
12 unless all of the following apply:

13 (i) That plan or contract was established by or under the auspices  
14 of an insider that employed the debtor at the time the debtor's  
15 rights under the plan or contract arose.

16 (ii) The payment is on account of age or length of service.

17 (iii) That plan or contract does not qualify under Section 401(a),  
18 403(a), 403(b), 408, or 408A of the Internal Revenue Code of  
19 1986.

20 (11) The debtor's right to receive, or property that is traceable  
21 to, any of the following:

22 (A) An award under a crime victim's reparation law.

23 (B) A payment on account of the wrongful death of an individual  
24 of whom the debtor was a dependent, to the extent reasonably  
25 necessary for the support of the debtor and any dependent of the  
26 debtor.

27 (C) A payment under a life insurance contract that insured the  
28 life of an individual of whom the debtor was a dependent on the  
29 date of that individual's death, to the extent reasonably necessary  
30 for the support of the debtor and any dependent of the debtor.

31 (D) A payment, not to exceed twenty-four thousand sixty dollars  
32 (\$24,060), on account of personal bodily injury of the debtor or  
33 an individual of whom the debtor is a dependent.

34 (E) A payment in compensation of loss of future earnings of  
35 the debtor or an individual of whom the debtor is or was a  
36 dependent, to the extent reasonably necessary for the support of  
37 the debtor and any dependent of the debtor.

38 SEC. 15. Section 704.930 of the Code of Civil Procedure is  
39 amended to read:

1 704.930. (a) A homestead declaration recorded pursuant to  
2 this article shall contain all of the following:

3 (1) The name of the declared homestead owner. ~~A husband and~~  
4 ~~wife~~ *Spouses* both may be named as declared homestead owners  
5 in the same homestead declaration if each owns an interest in the  
6 dwelling selected as the declared homestead.

7 (2) A description of the declared homestead.

8 (3) A statement that the declared homestead is the principal  
9 dwelling of the declared homestead owner or such person’s spouse,  
10 and that the declared homestead owner or such person’s spouse  
11 resides in the declared homestead on the date the homestead  
12 declaration is recorded.

13 (b) The homestead declaration shall be executed and  
14 acknowledged in the manner of an acknowledgment of a  
15 conveyance of real property by at least one of the following  
16 persons:

17 (1) The declared homestead owner.

18 (2) The spouse of the declared homestead owner.

19 (3) The guardian or conservator of the person or estate of either  
20 of the persons listed in paragraph (1) or (2). The guardian or  
21 conservator may execute, acknowledge, and record a homestead  
22 declaration without the need to obtain court authorization.

23 (4) A person acting under a power of attorney or otherwise  
24 authorized to act on behalf of a person listed in paragraph (1) or  
25 (2).

26 (c) The homestead declaration shall include a statement that the  
27 facts stated in the homestead declaration are known to be true as  
28 of the personal knowledge of the person executing and  
29 acknowledging the homestead declaration. If the homestead  
30 declaration is executed and acknowledged by a person listed in  
31 paragraph (3) or (4) of subdivision (b), it shall also contain a  
32 statement that the person has authority to so act on behalf of the  
33 declared homestead owner or the spouse of the declared homestead  
34 owner and the source of the person’s authority.

35 SEC. 16. Section 158 of the Corporations Code is amended to  
36 read:

37 158. (a) “Close corporation” means a corporation, including  
38 a close social purpose corporation, whose articles contain, in  
39 addition to the provisions required by Section 202, a provision that  
40 all of the corporation’s issued shares of all classes shall be held of

1 record by not more than a specified number of persons, not  
2 exceeding 35, and a statement “This corporation is a close  
3 corporation.”

4 (b) The special provisions referred to in subdivision (a) may be  
5 included in the articles by amendment, but if such amendment is  
6 adopted after the issuance of shares only by the affirmative vote  
7 of all of the issued and outstanding shares of all classes.

8 (c) The special provisions referred to in subdivision (a) may be  
9 deleted from the articles by amendment, or the number of  
10 shareholders specified may be changed by amendment, but if such  
11 amendment is adopted after the issuance of shares only by the  
12 affirmative vote of at least two-thirds of each class of the  
13 outstanding shares; provided, however, that the articles may  
14 provide for a lesser vote, but not less than a majority of the  
15 outstanding shares, or may deny a vote to any class, or both.

16 (d) In determining the number of shareholders for the purposes  
17 of the provision in the articles authorized by this section, ~~a husband~~  
18 ~~and wife~~ *spouses* and the personal representative of either shall be  
19 counted as one regardless of how shares may be held by either or  
20 both of them, a trust or personal representative of a decedent  
21 holding shares shall be counted as one regardless of the number  
22 of trustees or beneficiaries and a partnership or corporation or  
23 business association holding shares shall be counted as one (except  
24 that any such trust or entity the primary purpose of which was the  
25 acquisition or voting of the shares shall be counted according to  
26 the number of beneficial interests therein).

27 (e) A corporation shall cease to be a close corporation upon the  
28 filing of an amendment to its articles pursuant to subdivision (c)  
29 or if it shall have more than the maximum number of holders of  
30 record of its shares specified in its articles as a result of an inter  
31 vivos transfer of shares which is not void under subdivision (d) of  
32 Section 418, the transfer of shares on distribution by will or  
33 pursuant to the laws of descent and distribution, the dissolution of  
34 a partnership or corporation or business association or the  
35 termination of a trust which holds shares, by court decree upon  
36 dissolution of a marriage or otherwise by operation of law.  
37 Promptly upon acquiring more than the specified number of holders  
38 of record of its shares, a close corporation shall execute and file  
39 an amendment to its articles deleting the special provisions referred  
40 to in subdivision (a) and deleting any other provisions not

1 permissible for a corporation which is not a close corporation,  
2 which amendment shall be promptly approved and filed by the  
3 board and need not be approved by the outstanding shares.

4 (f) Nothing contained in this section shall invalidate any  
5 agreement among the shareholders to vote for the deletion from  
6 the articles of the special provisions referred to in subdivision (a)  
7 upon the lapse of a specified period of time or upon the occurrence  
8 of a certain event or condition or otherwise.

9 (g) The following sections contain specific references to close  
10 corporations: Sections 186, 202, 204, 300, 418, 421, 1111, 1201,  
11 1800, and 1904.

12 SEC. 17. Section 704 of the Corporations Code is amended to  
13 read:

14 704. If shares stand of record in the names of two or more  
15 persons, whether fiduciaries, members of a partnership, joint  
16 tenants, tenants in common, ~~husband and wife spouses~~ as  
17 community property, tenants by the entirety, voting trustees,  
18 persons entitled to vote under a shareholder voting agreement or  
19 otherwise, or if two or more persons (including proxyholders) have  
20 the same fiduciary relationship respecting the same shares, unless  
21 the secretary of the corporation is given written notice to the  
22 contrary and is furnished with a copy of the instrument or order  
23 appointing them or creating the relationship wherein it is so  
24 provided, their acts with respect to voting shall have the following  
25 effect:

- 26 (1) If only one votes, such act binds all;
- 27 (2) If more than one vote, the act of the majority so voting  
28 binds all;
- 29 (3) If more than one vote, but the vote is evenly split on any  
30 particular matter, each faction may vote the securities in question  
31 proportionately.

32  
33 If the instrument so filed or the registration of the shares shows  
34 that any such tenancy is held in unequal interests, a majority or  
35 even split for the purpose of this section shall be a majority or even  
36 split in interest.

37 SEC. 18. Section 5612 of the Corporations Code is amended  
38 to read:

39 5612. If a membership stands of record in the names of two or  
40 more persons, whether fiduciaries, members of a partnership, joint

1 tenants, tenants in common, ~~husband and wife spouses~~ as  
2 community property, tenants by the entirety, or otherwise, or if  
3 two or more persons (including proxyholders) have the same  
4 fiduciary relationship respecting the same membership, unless the  
5 secretary of the corporation is given written notice to the contrary  
6 and is furnished with a copy of the instrument or order appointing  
7 them or creating the relationship wherein it is so provided, their  
8 acts with respect to voting shall have the following effect:

9 (a) If only one votes, such act binds all;

10 (b) If more than one vote, the act of the majority so voting binds  
11 all.

12 SEC. 19. Section 7612 of the Corporations Code is amended  
13 to read:

14 7612. If a membership stands of record in the names of two or  
15 more persons, whether fiduciaries, members of a partnership, joint  
16 tenants, tenants in common, ~~husband and wife spouses~~ as  
17 community property, tenants by the entirety, persons entitled to  
18 vote under a voting agreement or otherwise, or if two or more  
19 persons (including proxyholders) have the same fiduciary  
20 relationship respecting the same membership, unless the secretary  
21 of the corporation is given written notice to the contrary and is  
22 furnished with a copy of the instrument or order appointing them  
23 or creating the relationship wherein it is so provided, their acts  
24 with respect to voting shall have the following effect:

25 (a) If only one votes, such act binds all; or

26 (b) If more than one vote, the act of the majority so voting binds  
27 all.

28 SEC. 20. Section 12482 of the Corporations Code is amended  
29 to read:

30 12482. Unless otherwise provided in the articles or bylaws, if  
31 a membership stands of record in the names of two or more  
32 persons, whether fiduciaries, members of a partnership, joint  
33 tenants, tenants in common, ~~husband and wife spouses~~ as  
34 community property, tenants by the entirety, persons entitled to  
35 vote under a voting agreement or otherwise, or if two or more  
36 persons have the same fiduciary relationship respecting the same  
37 membership, unless the secretary of the corporation is given written  
38 notice to the contrary and is furnished with a copy of the instrument  
39 or order appointing them or creating the relationship wherein it is

1 so provided, their acts with respect to voting shall have the  
2 following effect:

3 (a) If only one vote, such act binds all; or

4 (b) If more than one vote, the act of the majority so voting binds  
5 all.

6 SEC. 21. Section 25102 of the Corporations Code is amended  
7 to read:

8 25102. The following transactions are exempted from the  
9 provisions of Section 25110:

10 (a) Any offer (but not a sale) not involving any public offering  
11 and the execution and delivery of any agreement for the sale of  
12 securities pursuant to the offer if (1) the agreement contains  
13 substantially the following provision: “The sale of the securities  
14 that are the subject of this agreement has not been qualified with  
15 the Commissioner of Corporations of the State of California and  
16 the issuance of the securities or the payment or receipt of any part  
17 of the consideration therefor prior to the qualification is unlawful,  
18 unless the sale of securities is exempt from the qualification by  
19 Section 25100, 25102, or 25105 of the California Corporations  
20 Code. The rights of all parties to this agreement are expressly  
21 conditioned upon the qualification being obtained, unless the sale  
22 is so exempt”; and (2) no part of the purchase price is paid or  
23 received and none of the securities are issued until the sale of the  
24 securities is qualified under this law unless the sale of securities  
25 is exempt from the qualification by this section, Section 25100,  
26 or 25105.

27 (b) Any offer (but not a sale) of a security for which a  
28 registration statement has been filed under the Securities Act of  
29 1933 but has not yet become effective, or for which an offering  
30 statement under Regulation A has been filed but has not yet been  
31 qualified, if no stop order or refusal order is in effect and no public  
32 proceeding or examination looking towards an order is pending  
33 under Section 8 of the act and no order under Section 25140 or  
34 subdivision (a) of Section 25143 is in effect under this law.

35 (c) Any offer (but not a sale) and the execution and delivery of  
36 any agreement for the sale of securities pursuant to the offer as  
37 may be permitted by the commissioner upon application. Any  
38 negotiating permit under this subdivision shall be conditioned to  
39 the effect that none of the securities may be issued and none of

1 the consideration therefor may be received or accepted until the  
2 sale of the securities is qualified under this law.

3 (d) Any transaction or agreement between the issuer and an  
4 underwriter or among underwriters if the sale of the securities is  
5 qualified, or exempt from qualification, at the time of distribution  
6 thereof in this state, if any.

7 (e) Any offer or sale of any evidence of indebtedness, whether  
8 secured or unsecured, and any guarantee thereof, in a transaction  
9 not involving any public offering.

10 (f) Any offer or sale of any security in a transaction (other than  
11 an offer or sale to a pension or profit-sharing trust of the issuer)  
12 that meets each of the following criteria:

13 (1) Sales of the security are not made to more than 35 persons,  
14 including persons not in this state.

15 (2) All purchasers either have a preexisting personal or business  
16 relationship with the offeror or any of its partners, officers,  
17 directors or controlling persons, or managers (as appointed or  
18 elected by the members) if the offeror is a limited liability  
19 company, or by reason of their business or financial experience or  
20 the business or financial experience of their professional advisers  
21 who are unaffiliated with and who are not compensated by the  
22 issuer or any affiliate or selling agent of the issuer, directly or  
23 indirectly, could be reasonably assumed to have the capacity to  
24 protect their own interests in connection with the transaction.

25 (3) Each purchaser represents that the purchaser is purchasing  
26 for the purchaser's own account (or a trust account if the purchaser  
27 is a trustee) and not with a view to or for sale in connection with  
28 any distribution of the security.

29 (4) The offer and sale of the security is not accomplished by  
30 the publication of any advertisement. The number of purchasers  
31 referred to above is exclusive of any described in subdivision (i),  
32 any officer, director, or affiliate of the issuer, or manager (as  
33 appointed or elected by the members) if the issuer is a limited  
34 liability company, and any other purchaser who the commissioner  
35 designates by rule. For purposes of this section, ~~a husband and~~  
36 ~~wife spouses~~ (together with any custodian or trustee acting for the  
37 account of their minor children) are counted as one person and a  
38 partnership, corporation, or other organization that was not  
39 specifically formed for the purpose of purchasing the security  
40 offered in reliance upon this exemption, is counted as one person.

1 The commissioner shall by rule require the issuer to file a notice  
2 of transactions under this subdivision.

3 The failure to file the notice or the failure to file the notice within  
4 the time specified by the rule of the commissioner shall not affect  
5 the availability of the exemption. Any issuer that fails to file the  
6 notice as provided by rule of the commissioner shall, within 15  
7 business days after discovery of the failure to file the notice or  
8 after demand by the commissioner, whichever occurs first, file the  
9 notice and pay to the commissioner a fee equal to the fee payable  
10 had the transaction been qualified under Section 25110. Neither  
11 the filing of the notice nor the failure by the commissioner to  
12 comment thereon precludes the commissioner from taking any  
13 action that the commissioner deems necessary or appropriate under  
14 this division with respect to the offer and sale of the securities.

15 (g) Any offer or sale of conditional sale agreements, equipment  
16 trust certificates, or certificates of interest or participation therein  
17 or partial assignments thereof, covering the purchase of railroad  
18 rolling stock or equipment or the purchase of motor vehicles,  
19 aircraft, or parts thereof, in a transaction not involving any public  
20 offering.

21 (h) Any offer or sale of voting common stock by a corporation  
22 incorporated in any state if, immediately after the proposed sale  
23 and issuance, there will be only one class of stock of the  
24 corporation outstanding that is owned beneficially by no more than  
25 35 persons, provided all of the following requirements have been  
26 met:

27 (1) The offer and sale of the stock is not accompanied by the  
28 publication of any advertisement, and no selling expenses have  
29 been given, paid, or incurred in connection therewith.

30 (2) The consideration to be received by the issuer for the stock  
31 to be issued consists of any of the following:

32 (A) Only assets (which may include cash) of an existing business  
33 enterprise transferred to the issuer upon its initial organization, of  
34 which all of the persons who are to receive the stock to be issued  
35 pursuant to this exemption were owners during, and the enterprise  
36 was operated for, a period of not less than one year immediately  
37 preceding the proposed issuance, and the ownership of the  
38 enterprise immediately prior to the proposed issuance was in the  
39 same proportions as the shares of stock are to be issued.

1 (B) Only cash or cancellation of indebtedness for money  
2 borrowed, or both, upon the initial organization of the issuer,  
3 provided all of the stock is issued for the same price per share.

4 (C) Only cash, provided the sale is approved in writing by each  
5 of the existing shareholders and the purchaser or purchasers are  
6 existing shareholders.

7 (D) In a case where after the proposed issuance there will be  
8 only one owner of the stock of the issuer, only any legal  
9 consideration.

10 (3) No promotional consideration has been given, paid, or  
11 incurred in connection with the issuance. Promotional consideration  
12 means any consideration paid directly or indirectly to a person  
13 who, acting alone or in conjunction with one or more other persons,  
14 takes the initiative in founding and organizing the business or  
15 enterprise of an issuer for services rendered in connection with the  
16 founding or organizing.

17 (4) A notice in a form prescribed by rule of the commissioner,  
18 signed by an active member of the State Bar of California, is filed  
19 with or mailed for filing to the commissioner not later than 10  
20 business days after receipt of consideration for the securities by  
21 the issuer. That notice shall contain an opinion of the member of  
22 the State Bar of California that the exemption provided by this  
23 subdivision is available for the offer and sale of the securities. The  
24 failure to file the notice as required by this subdivision and the  
25 rules of the commissioner shall not affect the availability of this  
26 exemption. An issuer who fails to file the notice within the time  
27 specified by this subdivision shall, within 15 business days after  
28 discovery of the failure to file the notice or after demand by the  
29 commissioner, whichever occurs first, file the notice and pay to  
30 the commissioner a fee equal to the fee payable had the transaction  
31 been qualified under Section 25110. The notice, except when filed  
32 on behalf of a California corporation, shall be accompanied by an  
33 irrevocable consent, in the form that the commissioner by rule  
34 prescribes, appointing the commissioner or his or her successor in  
35 office to be the issuer's attorney to receive service of any lawful  
36 process in any noncriminal suit, action, or proceeding against it  
37 or its successor that arises under this law or any rule or order  
38 hereunder after the consent has been filed, with the same force and  
39 validity as if served personally on the issuer. An issuer on whose  
40 behalf a consent has been filed in connection with a previous

1 qualification or exemption from qualification under this law (or  
2 application for a permit under any prior law if the application or  
3 notice under this law states that the consent is still effective) need  
4 not file another. Service may be made by leaving a copy of the  
5 process in the office of the commissioner, but it is not effective  
6 unless (A) the plaintiff, who may be the commissioner in a suit,  
7 action, or proceeding instituted by him or her, forthwith sends  
8 notice of the service and a copy of the process by registered or  
9 certified mail to the defendant or respondent at its last address on  
10 file with the commissioner, and (B) the plaintiff's affidavit of  
11 compliance with this section is filed in the case on or before the  
12 return day of the process, if any, or within the further time as the  
13 court allows.

14 (5) Each purchaser represents that the purchaser is purchasing  
15 for the purchaser's own account, or a trust account if the purchaser  
16 is a trustee, and not with a view to or for sale in connection with  
17 any distribution of the stock.

18 For the purposes of this subdivision, all securities held by ~~a~~  
19 ~~husband and wife, spouses,~~ whether or not jointly, shall be  
20 considered to be owned by one person, and all securities held by  
21 a corporation that has issued stock pursuant to this exemption shall  
22 be considered to be held by the shareholders to whom it has issued  
23 the stock.

24 All stock issued by a corporation pursuant to this subdivision as  
25 it existed prior to the effective date of the amendments to this  
26 section made during the 1996 portion of the 1995-96 Regular  
27 Session that required the issuer to have stamped or printed  
28 prominently on the face of the stock certificate a legend in a form  
29 prescribed by rule of the commissioner restricting transfer of the  
30 stock in a manner provided for by that rule shall not be subject to  
31 the transfer restriction legend requirement and, by operation of  
32 law, the corporation is authorized to remove that transfer restriction  
33 legend from the certificates of those shares of stock issued by the  
34 corporation pursuant to this subdivision as it existed prior to the  
35 effective date of the amendments to this section made during the  
36 1996 portion of the 1995-96 Regular Session.

37 (i) Any offer or sale (1) to a bank, savings and loan association,  
38 trust company, insurance company, investment company registered  
39 under the Investment Company Act of 1940, pension or  
40 profit-sharing trust (other than a pension or profit-sharing trust of

1 the issuer, a self-employed individual retirement plan, or individual  
2 retirement account), or other institutional investor or governmental  
3 agency or instrumentality that the commissioner may designate  
4 by rule, whether the purchaser is acting for itself or as trustee, or  
5 (2) to any corporation with outstanding securities registered under  
6 Section 12 of the Securities Exchange Act of 1934 or any wholly  
7 owned subsidiary of the corporation that after the offer and sale  
8 will own directly or indirectly 100 percent of the outstanding  
9 capital stock of the issuer, provided the purchaser represents that  
10 it is purchasing for its own account (or for the trust account) for  
11 investment and not with a view to or for sale in connection with  
12 any distribution of the security.

13 (j) Any offer or sale of any certificate of interest or participation  
14 in an oil or gas title or lease (including subsurface gas storage and  
15 payments out of production) if either of the following apply:

16 (1) All of the purchasers meet one of the following requirements:

17 (A) Are and have been during the preceding two years engaged  
18 primarily in the business of drilling for, producing, or refining oil  
19 or gas (or whose corporate predecessor, in the case of a corporation,  
20 has been so engaged).

21 (B) Are persons described in paragraph (1) of subdivision (i).

22 (C) Have been found by the commissioner upon written  
23 application to be substantially engaged in the business of drilling  
24 for, producing, or refining oil or gas so as not to require the  
25 protection provided by this law (which finding shall be effective  
26 until rescinded).

27 (2) The security is concurrently hypothecated to a bank in the  
28 ordinary course of business to secure a loan made by the bank,  
29 provided that each purchaser represents that it is purchasing for  
30 its own account for investment and not with a view to or for sale  
31 in connection with any distribution of the security.

32 (k) Any offer or sale of any security under, or pursuant to, a  
33 plan of reorganization under Chapter 11 of the federal bankruptcy  
34 law that has been confirmed or is subject to confirmation by the  
35 decree or order of a court of competent jurisdiction.

36 (l) Any offer or sale of an option, warrant, put, call, or straddle,  
37 and any guarantee of any of these securities, by a person who is  
38 not the issuer of the security subject to the right, if the transaction,  
39 had it involved an offer or sale of the security subject to the right  
40 by the person, would not have violated Section 25110 or 25130.

1 (m) Any offer or sale of a stock to a pension, profit-sharing,  
2 stock bonus, or employee stock ownership plan, provided that (1)  
3 the plan meets the requirements for qualification under Section  
4 401 of the Internal Revenue Code, and (2) the employees are not  
5 required or permitted individually to make any contributions to  
6 the plan. The exemption provided by this subdivision shall not be  
7 affected by whether the stock is contributed to the plan, purchased  
8 from the issuer with contributions by the issuer or an affiliate of  
9 the issuer, or purchased from the issuer with funds borrowed from  
10 the issuer, an affiliate of the issuer, or any other lender.

11 (n) Any offer or sale of any security in a transaction, other than  
12 an offer or sale of a security in a rollup transaction, that meets all  
13 of the following criteria:

14 (1) The issuer is (A) a California corporation or foreign  
15 corporation that, at the time of the filing of the notice required  
16 under this subdivision, is subject to Section 2115, or (B) any other  
17 form of business entity, including without limitation a partnership  
18 or trust organized under the laws of this state. The exemption  
19 provided by this subdivision is not available to a “blind pool”  
20 issuer, as that term is defined by the commissioner, or to an  
21 investment company subject to the Investment Company Act of  
22 1940.

23 (2) Sales of securities are made only to qualified purchasers or  
24 other persons the issuer reasonably believes, after reasonable  
25 inquiry, to be qualified purchasers. A corporation, partnership, or  
26 other organization specifically formed for the purpose of acquiring  
27 the securities offered by the issuer in reliance upon this exemption  
28 may be a qualified purchaser if each of the equity owners of the  
29 corporation, partnership, or other organization is a qualified  
30 purchaser. Qualified purchasers include the following:

31 (A) A person designated in Section 260.102.13 of Title 10 of  
32 the California Code of Regulations.

33 (B) A person designated in subdivision (i) or any rule of the  
34 commissioner adopted thereunder.

35 (C) A pension or profit-sharing trust of the issuer, a  
36 self-employed individual retirement plan, or an individual  
37 retirement account, if the investment decisions made on behalf of  
38 the trust, plan, or account are made solely by persons who are  
39 qualified purchasers.

1 (D) An organization described in Section 501(c)(3) of the  
2 Internal Revenue Code, corporation, Massachusetts or similar  
3 business trust, or partnership, each with total assets in excess of  
4 five million dollars (\$5,000,000) according to its most recent  
5 audited financial statements.

6 (E) With respect to the offer and sale of one class of voting  
7 common stock of an issuer or of preferred stock of an issuer  
8 entitling the holder thereof to at least the same voting rights as the  
9 issuer's one class of voting common stock, provided that the issuer  
10 has only one-class voting common stock outstanding upon  
11 consummation of the offer and sale, a natural person who, either  
12 individually or jointly with the person's spouse, (i) has a minimum  
13 net worth of two hundred fifty thousand dollars (\$250,000) and  
14 had, during the immediately preceding tax year, gross income in  
15 excess of one hundred thousand dollars (\$100,000) and reasonably  
16 expects gross income in excess of one hundred thousand dollars  
17 (\$100,000) during the current tax year or (ii) has a minimum net  
18 worth of five hundred thousand dollars (\$500,000). "Net worth"  
19 shall be determined exclusive of home, home furnishings, and  
20 automobiles. Other assets included in the computation of net worth  
21 may be valued at fair market value.

22 Each natural person specified above, by reason of his or her  
23 business or financial experience, or the business or financial  
24 experience of his or her professional adviser, who is unaffiliated  
25 with and who is not compensated, directly or indirectly, by the  
26 issuer or any affiliate or selling agent of the issuer, can be  
27 reasonably assumed to have the capacity to protect his or her  
28 interests in connection with the transaction. The amount of the  
29 investment of each natural person shall not exceed 10 percent of  
30 the net worth, as determined by this subparagraph, of that natural  
31 person.

32 (F) Any other purchaser designated as qualified by rule of the  
33 commissioner.

34 (3) Each purchaser represents that the purchaser is purchasing  
35 for the purchaser's own account (or trust account, if the purchaser  
36 is a trustee) and not with a view to or for sale in connection with  
37 a distribution of the security.

38 (4) Each natural person purchaser, including a corporation,  
39 partnership, or other organization specifically formed by natural  
40 persons for the purpose of acquiring the securities offered by the

1 issuer, receives, at least five business days before securities are  
2 sold to, or a commitment to purchase is accepted from, the  
3 purchaser, a written offering disclosure statement that shall meet  
4 the disclosure requirements of Regulation D (17 C.F.R. 230.501  
5 et seq.), and any other information as may be prescribed by rule  
6 of the commissioner, provided that the issuer shall not be obligated  
7 pursuant to this paragraph to provide this disclosure statement to  
8 a natural person qualified under Section 260.102.13 of Title 10 of  
9 the California Code of Regulations. The offer or sale of securities  
10 pursuant to a disclosure statement required by this paragraph that  
11 is in violation of Section 25401, or that fails to meet the disclosure  
12 requirements of Regulation D (17 C.F.R. 230.501 et seq.), shall  
13 not render unavailable to the issuer the claim of an exemption from  
14 Section 25110 afforded by this subdivision. This paragraph does  
15 not impose, directly or indirectly, any additional disclosure  
16 obligation with respect to any other exemption from qualification  
17 available under any other provision of this section.

18 (5) (A) A general announcement of proposed offering may be  
19 published by written document only, provided that the general  
20 announcement of proposed offering sets forth the following  
21 required information:

- 22 (i) The name of the issuer of the securities.
- 23 (ii) The full title of the security to be issued.
- 24 (iii) The anticipated suitability standards for prospective  
25 purchasers.
- 26 (iv) A statement that (I) no money or other consideration is  
27 being solicited or will be accepted, (II) an indication of interest  
28 made by a prospective purchaser involves no obligation or  
29 commitment of any kind, and, if the issuer is required by paragraph  
30 (4) to deliver a disclosure statement to prospective purchasers,  
31 (III) no sales will be made or commitment to purchase accepted  
32 until five business days after delivery of a disclosure statement  
33 and subscription information to the prospective purchaser in  
34 accordance with the requirements of this subdivision.
- 35 (v) Any other information required by rule of the commissioner.
- 36 (vi) The following legend: “For more complete information  
37 about (Name of Issuer) and (Full Title of Security), send for  
38 additional information from (Name and Address) by sending this  
39 coupon or calling (Telephone Number).”

1 (B) The general announcement of proposed offering referred  
2 to in subparagraph (A) may also set forth the following  
3 information:

- 4 (i) A brief description of the business of the issuer.
- 5 (ii) The geographic location of the issuer and its business.
- 6 (iii) The price of the security to be issued, or, if the price is not  
7 known, the method of its determination or the probable price range  
8 as specified by the issuer, and the aggregate offering price.

9 (C) The general announcement of proposed offering shall  
10 contain only the information that is set forth in this paragraph.

11 (D) Dissemination of the general announcement of proposed  
12 offering to persons who are not qualified purchasers, without more,  
13 shall not disqualify the issuer from claiming the exemption under  
14 this subdivision.

15 (6) No telephone solicitation shall be permitted until the issuer  
16 has determined that the prospective purchaser to be solicited is a  
17 qualified purchaser.

18 (7) The issuer files a notice of transaction under this subdivision  
19 both (A) concurrent with the publication of a general announcement  
20 of proposed offering or at the time of the initial offer of the  
21 securities, whichever occurs first, accompanied by a filing fee, and  
22 (B) within 10 business days following the close or abandonment  
23 of the offering, but in no case more than 210 days from the date  
24 of filing the first notice. The first notice of transaction under  
25 subparagraph (A) shall contain an undertaking, in a form acceptable  
26 to the commissioner, to deliver any disclosure statement required  
27 by paragraph (4) to be delivered to prospective purchasers, and  
28 any supplement thereto, to the commissioner within 10 days of  
29 the commissioner's request for the information. The exemption  
30 from qualification afforded by this subdivision is unavailable if  
31 an issuer fails to file the first notice required under subparagraph  
32 (A) or to pay the filing fee. The commissioner has the authority  
33 to assess an administrative penalty of up to one thousand dollars  
34 (\$1,000) against an issuer that fails to deliver the disclosure  
35 statement required to be delivered to the commissioner upon the  
36 commissioner's request within the time period set forth above.  
37 Neither the filing of the disclosure statement nor the failure by the  
38 commissioner to comment thereon precludes the commissioner  
39 from taking any action deemed necessary or appropriate under this  
40 division with respect to the offer and sale of the securities.

1 (o) An offer or sale of any security issued by a corporation or  
2 limited liability company pursuant to a purchase plan or agreement,  
3 or issued pursuant to an option plan or agreement, where the  
4 security at the time of issuance or grant is exempt from registration  
5 under the Securities Act of 1933, as amended, pursuant to Rule  
6 701 adopted pursuant to that act (17 C.F.R. 230.701), the provisions  
7 of which are hereby incorporated by reference into this section,  
8 provided that (1) the terms of any purchase plan or agreement shall  
9 comply with Sections 260.140.42, 260.140.45, and 260.140.46 of  
10 Title 10 of the California Code of Regulations, (2) the terms of  
11 any option plan or agreement shall comply with Sections  
12 260.140.41, 260.140.45, and 260.140.46 of Title 10 of the  
13 California Code of Regulations, and (3) the issuer files a notice of  
14 transaction in accordance with rules adopted by the commissioner  
15 no later than 30 days after the initial issuance of any security under  
16 that plan, accompanied by a filing fee as prescribed by subdivision  
17 (y) of Section 25608. The failure to file the notice of transaction  
18 within the time specified in this subdivision shall not affect the  
19 availability of this exemption. An issuer that fails to file the notice  
20 shall, within 15 business days after discovery of the failure to file  
21 the notice or after demand by the commissioner, whichever occurs  
22 first, file the notice and pay the commissioner a fee equal to the  
23 maximum aggregate fee payable had the transaction been qualified  
24 under Section 25110.

25 Offers and sales exempt pursuant to this subdivision shall be  
26 deemed to be part of a single, discrete offering and are not subject  
27 to integration with any other offering or sale, whether qualified  
28 under Chapter 2 (commencing with Section 25110), or otherwise  
29 exempt, or not subject to qualification.

30 (p) An offer or sale of nonredeemable securities to accredited  
31 investors (Section 28031) by a person licensed under the Capital  
32 Access Company Law (Division 3 (commencing with Section  
33 28000) of Title 4), provided that all purchasers either (1) have a  
34 preexisting personal or business relationship with the offeror or  
35 any of its partners, officers, directors, controlling persons, or  
36 managers (as appointed or elected by the members), or (2) by  
37 reason of their business or financial experience or the business or  
38 financial experience of their professional advisers who are  
39 unaffiliated with and who are not compensated by the issuer or  
40 any affiliate or selling agent of the issuer, directly or indirectly,

1 could be reasonably assumed to have the capacity to protect their  
2 own interests in connection with the transaction. All nonredeemable  
3 securities shall be evidenced by certificates that shall have stamped  
4 or printed prominently on their face a legend in a form to be  
5 prescribed by rule or order of the commissioner restricting transfer  
6 of the securities in the manner as the rule or order provides. The  
7 exemption under this subdivision shall not be available for any  
8 offering that is exempt or asserted to be exempt pursuant to Section  
9 3(a)(11) of the Securities Act of 1933 (15 U.S.C. Sec. 77c(a)(11))  
10 or Rule 147 (17 C.F.R. 230.147) thereunder or otherwise is  
11 conducted by means of any form of general solicitation or general  
12 advertising.

13 (q) Any offer or sale of any viatical or life settlement contract  
14 or fractionalized or pooled interest therein in a transaction that  
15 meets all of the following criteria:

16 (1) Sales of securities described in this subdivision are made  
17 only to qualified purchasers or other persons the issuer reasonably  
18 believes, after reasonable inquiry, to be qualified purchasers. A  
19 corporation, partnership, or other organization specifically formed  
20 for the purpose of acquiring the securities offered by the issuer in  
21 reliance upon this exemption may be a qualified purchaser only if  
22 each of the equity owners of the corporation, partnership, or other  
23 organization is a qualified purchaser. Qualified purchasers include  
24 the following:

25 (A) A person designated in Section 260.102.13 of Title 10 of  
26 the California Code of Regulations.

27 (B) A person designated in subdivision (i) or any rule of the  
28 commissioner adopted thereunder.

29 (C) A pension or profit-sharing trust of the issuer, a  
30 self-employed individual retirement plan, or an individual  
31 retirement account, if the investment decisions made on behalf of  
32 the trust, plan, or account are made solely by persons who are  
33 qualified purchasers.

34 (D) An organization described in Section 501(c)(3) of the  
35 Internal Revenue Code, corporation, Massachusetts or similar  
36 business trust, or partnership, each with total assets in excess of  
37 five million dollars (\$5,000,000) according to its most recent  
38 audited financial statements.

39 (E) A natural person who, either individually or jointly with the  
40 person's spouse, (i) has a minimum net worth of one hundred fifty

1 thousand dollars (\$150,000) and had, during the immediately  
2 preceding tax year, gross income in excess of one hundred thousand  
3 dollars (\$100,000) and reasonably expects gross income in excess  
4 of one hundred thousand dollars (\$100,000) during the current tax  
5 year or (ii) has a minimum net worth of two hundred fifty thousand  
6 dollars (\$250,000). “Net worth” shall be determined exclusive of  
7 home, home furnishings, and automobiles. Other assets included  
8 in the computation of net worth may be valued at fair market value.

9 Each natural person specified above, by reason of his or her  
10 business or financial experience, or the business or financial  
11 experience of his or her professional adviser, who is unaffiliated  
12 with and who is not compensated, directly or indirectly, by the  
13 issuer or any affiliate or selling agent of the issuer, can be  
14 reasonably assumed to have the capacity to protect his or her  
15 interests in connection with the transaction.

16 The amount of the investment of each natural person shall not  
17 exceed 10 percent of the net worth, as determined by this  
18 subdivision, of that natural person.

19 (F) Any other purchaser designated as qualified by rule of the  
20 commissioner.

21 (2) Each purchaser represents that the purchaser is purchasing  
22 for the purchaser’s own account (or trust account, if the purchaser  
23 is a trustee) and not with a view to or for sale in connection with  
24 a distribution of the security.

25 (3) Each natural person purchaser, including a corporation,  
26 partnership, or other organization specifically formed by natural  
27 persons for the purpose of acquiring the securities offered by the  
28 issuer, receives, at least five business days before securities  
29 described in this subdivision are sold to, or a commitment to  
30 purchase is accepted from, the purchaser, the following information  
31 in writing:

32 (A) The name, principal business and mailing address, and  
33 telephone number of the issuer.

34 (B) The suitability standards for prospective purchasers as set  
35 forth in paragraph (1) of this subdivision.

36 (C) A description of the issuer’s type of business organization  
37 and the state in which the issuer is organized or incorporated.

38 (D) A brief description of the business of the issuer.

39 (E) If the issuer retains ownership or becomes the beneficiary  
40 of the insurance policy, an audit report of an independent certified

1 public accountant together with a balance sheet and related  
2 statements of income, retained earnings, and cashflows that reflect  
3 the issuer's financial position, the results of the issuer's operations,  
4 and the issuer's cashflows as of a date within 15 months before  
5 the date of the initial issuance of the securities described in this  
6 subdivision. The financial statements listed in this subparagraph  
7 shall be prepared in conformity with generally accepted accounting  
8 principles. If the date of the audit report is more than 120 days  
9 before the date of the initial issuance of the securities described  
10 in this subdivision, the issuer shall provide unaudited interim  
11 financial statements.

12 (F) The names of all directors, officers, partners, members, or  
13 trustees of the issuer.

14 (G) A description of any order, judgment, or decree that is final  
15 as to the issuing entity of any state, federal, or foreign country  
16 governmental agency or administrator, or of any state, federal, or  
17 foreign country court of competent jurisdiction (i) revoking,  
18 suspending, denying, or censuring for cause any license, permit,  
19 or other authority of the issuer or of any director, officer, partner,  
20 member, trustee, or person owning or controlling, directly or  
21 indirectly, 10 percent or more of the outstanding interest or equity  
22 securities of the issuer, to engage in the securities, commodities,  
23 franchise, insurance, real estate, or lending business or in the offer  
24 or sale of securities, commodities, franchises, insurance, real estate,  
25 or loans, (ii) permanently restraining, enjoining, barring,  
26 suspending, or censuring any such person from engaging in or  
27 continuing any conduct, practice, or employment in connection  
28 with the offer or sale of securities, commodities, franchises,  
29 insurance, real estate, or loans, (iii) convicting any such person  
30 of, or pleading nolo contendere by any such person to, any felony  
31 or misdemeanor involving a security, commodity, franchise,  
32 insurance, real estate, or loan, or any aspect of the securities,  
33 commodities, franchise, insurance, real estate, or lending business,  
34 or involving dishonesty, fraud, deceit, embezzlement, fraudulent  
35 conversion, or misappropriation of property, or (iv) holding any  
36 such person liable in a civil action involving breach of a fiduciary  
37 duty, fraud, deceit, embezzlement, fraudulent conversion, or  
38 misappropriation of property. This subparagraph does not apply  
39 to any order, judgment, or decree that has been vacated, overturned,  
40 or is more than 10 years old.

- 1 (H) Notice of the purchaser's right to rescind or cancel the  
2 investment and receive a refund pursuant to Section 25508.5.
- 3 (I) The name, address, and telephone number of the issuing  
4 insurance company, and the name, address, and telephone number  
5 of the state or foreign country regulator of the insurance company.
- 6 (J) The total face value of the insurance policy and the  
7 percentage of the insurance policy the purchaser will own.
- 8 (K) The insurance policy number, issue date, and type.
- 9 (L) If a group insurance policy, the name, address, and telephone  
10 number of the group, and, if applicable, the material terms and  
11 conditions of converting the policy to an individual policy,  
12 including the amount of increased premiums.
- 13 (M) If a term insurance policy, the term and the name, address,  
14 and telephone number of the person who will be responsible for  
15 renewing the policy if necessary.
- 16 (N) That the insurance policy is beyond the state statute for  
17 contestability and the reason therefor.
- 18 (O) The insurance policy premiums and terms of premium  
19 payments.
- 20 (P) The amount of the purchaser's moneys that will be set aside  
21 to pay premiums.
- 22 (Q) The name, address, and telephone number of the person  
23 who will be the insurance policy owner and the person who will  
24 be responsible for paying premiums.
- 25 (R) The date on which the purchaser will be required to pay  
26 premiums and the amount of the premium, if known.
- 27 (S) A statement to the effect that any projected rate of return to  
28 the purchaser from the purchase of a viatical or life settlement  
29 contract or a fractionalized or pooled interest therein is based on  
30 an estimated life expectancy for the person insured under the life  
31 insurance policy; that the return on the purchase may vary  
32 substantially from the expected rate of return based upon the actual  
33 life expectancy of the insured that may be less than, equal to, or  
34 may greatly exceed the estimated life expectancy; and that the rate  
35 of return would be higher if the actual life expectancy were less  
36 than, and lower if the actual life expectancy were greater than the  
37 estimated life expectancy of the insured at the time the viatical or  
38 life settlement contract was closed.
- 39 (T) A statement that the purchaser should consult with his or  
40 her tax adviser regarding the tax consequences of the purchase of

1 the viatical or life settlement contract or fractionalized or pooled  
2 interest therein and, if the purchaser is using retirement funds or  
3 accounts for that purchase, whether or not any adverse tax  
4 consequences might result from the use of those funds for the  
5 purchase of that investment.

6 (U) Any other information as may be prescribed by rule of the  
7 commissioner.

8 SEC. 22. Section 25206 of the Corporations Code is amended  
9 to read:

10 25206. A broker licensed by the Real Estate Commissioner is  
11 exempt from the provisions of Section 25210 when engaged in  
12 transactions in any interest in any general or limited partnership,  
13 joint venture, unincorporated association, or similar organization  
14 (but not a corporation) owned beneficially by no more than 100  
15 persons and formed for the sole purpose of, and engaged solely  
16 in, investment in or gain from an interest in real property, including,  
17 but not limited to, a sale, exchange, trade, or development. An  
18 interest held by ~~a husband and wife~~ *spouses* shall be considered  
19 held by one person for the purposes of this section.

20 SEC. 23. Section 21100 of the Education Code is amended to  
21 read:

22 21100. Any person desiring in his *or her* lifetime to promote  
23 the public welfare by founding, endowing, and maintaining within  
24 this state a university, college, school, seminary of learning,  
25 mechanical institute, museum, botanic garden, public park, or  
26 gallery of art, or any or all thereof, may, for such purposes, by  
27 grant in writing convey to a trustee, or any number of trustees,  
28 named in the grant, and to their successors, any property, real or  
29 personal, belonging to him *or her* and situated within this state. If  
30 he *or she* is married and the property is community property, then  
31 both ~~husband and wife~~ *spouses* shall join in the grant.

32 SEC. 24. Section 24803 of the Education Code is amended to  
33 read:

34 24803. (a) If any benefit is payable by a district retirement  
35 system to the estate of a deceased person, whether because the  
36 estate is the beneficiary of the person or because no beneficiary  
37 was designated or because an allowance payable to the person had  
38 accrued and remained unpaid at the date of the death, and the estate  
39 would not be administered if no amount were due from the system,  
40 then the benefit shall be paid directly without procuring letters of

1 administration to the surviving next of kin of the deceased, or the  
2 guardians of the survivors' estates, share and share alike. The  
3 payment shall be made in the same order in which the following  
4 groups are listed:

- 5 (1) ~~Husband or wife.~~ *Spouse.*
- 6 (2) Children and issue of deceased children by right of  
7 representation.
- 8 (3) Father and mother.
- 9 (4) Brothers and sisters.
- 10 (5) Nieces and nephews.

11 (b) Payment may also be made to persons in the groups listed  
12 in subdivision (a) to the extent those persons are the only  
13 beneficiaries under the last will and testament of a deceased former  
14 member of a district retirement system, without the probate of the  
15 will.

16 SEC. 25. Section 68062 of the Education Code is amended to  
17 read:

18 68062. In determining the place of residence the following  
19 rules are to be observed:

- 20 (a) There can only be one residence.
- 21 (b) A residence is the place where one remains when not called  
22 elsewhere for labor or other special or temporary purpose, and to  
23 which he or she returns in seasons of repose.
- 24 (c) A residence cannot be lost until another is gained.
- 25 (d) The residence can be changed only by the union of act and  
26 intent.
- 27 (e) A man or woman may establish his or her residence. A  
28 woman's residence shall not be derivative from that of her ~~husband.~~  
29 *spouse.*
- 30 (f) The residence of the parent with whom an unmarried minor  
31 child maintains his or her place of abode is the residence of the  
32 unmarried minor child. When the minor lives with neither parent  
33 his or her residence is that of the parent with whom he or she  
34 maintained his or her last place of abode, provided the minor may  
35 establish his or her residence when both parents are deceased and  
36 a legal guardian has not been appointed.
- 37 (g) The residence of an unmarried minor who has a parent living  
38 cannot be changed by his or her own act, by the appointment of a  
39 legal guardian, or by relinquishment of a parent's right of control.

1 (h) An alien, including an unmarried minor alien, may establish  
2 his or her residence, unless precluded by the Immigration and  
3 Nationality Act (8 U.S.C. 1101, et seq.) from establishing domicile  
4 in the United States.

5 (i) The residence of an unmarried minor alien shall be derived  
6 from his or her parents pursuant to the provisions of subdivisions  
7 (f) and (g).

8 SEC. 26. Section 917 of the Evidence Code is amended to read:

9 917. (a) If a privilege is claimed on the ground that the matter  
10 sought to be disclosed is a communication made in confidence in  
11 the course of the lawyer-client, lawyer referral service-client,  
12 physician-patient, psychotherapist-patient, clergy-penitent,  
13 ~~husband-wife~~, *spouse-spouse*, sexual assault counselor-victim,  
14 domestic violence counselor-victim, or human trafficking  
15 caseworker-victim relationship, the communication is presumed  
16 to have been made in confidence and the opponent of the claim of  
17 privilege has the burden of proof to establish that the  
18 communication was not confidential.

19 (b) A communication between persons in a relationship listed  
20 in subdivision (a) does not lose its privileged character for the sole  
21 reason that it is communicated by electronic means or because  
22 persons involved in the delivery, facilitation, or storage of  
23 electronic communication may have access to the content of the  
24 communication.

25 (c) For purposes of this section, “electronic” has the same  
26 meaning provided in Section 1633.2 of the Civil Code.

27 SEC. 27. Section 980 of the Evidence Code is amended to read:

28 980. Subject to Section 912 and except as otherwise provided  
29 in this article, a spouse (or his *or her* guardian or conservator when  
30 he *or she* has a guardian or conservator), whether or not a party,  
31 has a privilege during the marital relationship and afterwards to  
32 refuse to disclose, and to prevent another from disclosing, a  
33 communication if he *or she* claims the privilege and the  
34 ~~communication~~ *communication* was made in confidence between  
35 him *or her* and the other spouse while they were ~~husband and wife~~.  
36 *spouses*.

37 SEC. 28. Section 14860 of the Financial Code is amended to  
38 read:

39 14860. Except as provided in this section and Part 2  
40 (commencing with Section 5100) of Division 5 of the Probate

1 Code, no credit union shall exercise trust powers except upon  
2 qualifying as a trust company pursuant to Division 1 (commencing  
3 with Section 99).

4 (a) Notwithstanding any other provisions of law relating to trusts  
5 and trust authority, subject to the regulations of the commissioner,  
6 a credit union may act as a trustee or custodian, and may receive  
7 reasonable compensation for so acting, under any written trust  
8 instrument or custodial agreement created or organized in the  
9 United States which is a part of a pension, education, or medical  
10 plan for its members or groups or organizations of its members,  
11 which qualifies or has qualified for specific tax treatment under  
12 Section 220, 223, 401, 408, 408A, 457, or 530 of the Internal  
13 Revenue Code, Title 26 of the United States Code, or any deferred  
14 compensation plan for the benefit of the credit union's employees,  
15 provided the funds received pursuant to these plans are invested  
16 as provided in Section 16040 of the Probate Code. All funds held  
17 by a credit union as trustee or in a custodial capacity shall be  
18 maintained in accordance with applicable laws and rules and  
19 regulations as may be promulgated by the Secretary of Labor, the  
20 Secretary of the Treasury, or any other authority exercising  
21 jurisdiction over the trust or custodial accounts. The credit union  
22 shall maintain individual records for each participant or beneficiary  
23 that show in detail all transactions relating to the funds of each  
24 participant or beneficiary.

25 The trust instrument or agreement shall provide for the  
26 appointment of a successor trustee or custodian by a person,  
27 committee, corporation, or organization other than the credit union  
28 or any person acting in his or her capacity as a director, employee,  
29 or agent of the credit union, upon notice from the credit union or  
30 the commissioner that the credit union is unwilling or unable to  
31 continue to act as trustee or custodian.

32 (b) Shares may be issued in a revocable or irrevocable trust  
33 subject to the following:

34 (1) When shares are issued in a revocable trust, the settlor shall  
35 be a member of the credit union issuing the shares in his or her  
36 own right. If the trust has joint settlers, who are ~~husband and wife,~~  
37 *spouses*, then only one settlor need be a member of the credit union.

38 (2) When shares are issued in an irrevocable trust, the settlor or  
39 the beneficiary shall be a member of this credit union in his or her  
40 own right. For purposes of this section, shares issued pursuant to

1 a pension plan authorized by this section shall be treated as an  
2 irrevocable trust unless otherwise indicated in rules and regulations  
3 issued by the commissioner.

4 (3) This subdivision does not apply to trust accounts established  
5 prior to the effective date of this subdivision.

6 SEC. 29. Section 18220 of the Financial Code is amended to  
7 read:

8 18220. An industrial loan company shall not induce any  
9 ~~husband and wife~~ *spouses* jointly or severally, to become obligated,  
10 directly or contingently or both, under more than one contract of  
11 loan at the same time, with the result of obtaining a higher rate of  
12 charge than would otherwise be permitted by this division.

13 SEC. 30. Section 18523 of the Financial Code is amended to  
14 read:

15 18523. The following described thrift obligations will be  
16 guaranteed by Guaranty Corporation in the amounts hereinafter  
17 set forth below:

18 (a) Single ownership investment certificates. Funds owned by  
19 an individual and invested in the manner set forth below shall be  
20 added together and guaranteed up to fifty thousand dollars  
21 (\$50,000) in the aggregate.

22 (1) Individual investment certificates (or investment certificates  
23 of the ~~husband-wife~~ *marital* community of which the individual  
24 is a member) and invested in one or more investment certificates  
25 in his or her own name shall be guaranteed up to fifty thousand  
26 dollars (\$50,000) in the aggregate.

27 (2) Funds owned by a principal and invested in one or more  
28 investment certificates in the name or names of agents or nominees  
29 shall be added to any individual investment certificates of the  
30 principal and guaranteed up to fifty thousand dollars (\$50,000) in  
31 the aggregate.

32 (3) Investment certificates held by guardians, custodians or  
33 conservators for the benefit of their wards or for the benefit of a  
34 minor under a Uniform Gifts to Minors Act and invested in one  
35 or more investment certificates in the name of the guardian,  
36 custodian or conservator shall be added to any individual  
37 investment certificates of the ward or minor and guaranteed up to  
38 fifty thousand dollars (\$50,000) in the aggregate.

39 (b) Testamentary investment certificates.

1 (1) Funds owned by an individual and invested in a revocable  
2 trust investment certificate, tentative trust investment certificate,  
3 payable-on-death investment certificate, or similar investment  
4 certificate evidencing an intention that on his or her death the funds  
5 shall belong to his or her spouse, child or grandchild, shall be  
6 guaranteed up to fifty thousand dollars (\$50,000) in the aggregate,  
7 as to each such named beneficiary, separately from any other  
8 investment certificates of the owner.

9 (2) If the named beneficiary of such an investment certificate  
10 is other than the owner's spouse, child or grandchild, the funds in  
11 the investment certificate shall be added to any individual  
12 investment certificates of such owner and guaranteed up to fifty  
13 thousand dollars (\$50,000) in the aggregate, separately from the  
14 individual investment certificates of the beneficiaries of the estate  
15 or of the executor or administrator.

16 (c) Investment certificates held by executors or administrators.  
17 Funds of a decedent held in the name of the decedent or in the  
18 name of the executor or administrator of his or her estate and  
19 invested in one or more investment certificates shall be guaranteed  
20 up to fifty thousand dollars (\$50,000) in the aggregate, separately  
21 from the individual investment certificates of the beneficiaries of  
22 the estate or of the executor or administrator.

23 (d) Corporation or partnership investment certificates.  
24 Investment certificates of a corporation or partnership engaged in  
25 any independent activity shall be guaranteed up to fifty thousand  
26 dollars (\$50,000) in the aggregate. An investment certificate of a  
27 corporation or partnership not engaged in an independent activity  
28 shall be deemed to be owned by the person or persons owning  
29 such corporation or comprising such partnership and, for guarantee  
30 purposes, the interest of each person in the investment certificate  
31 shall be added to any other investment certificates individually  
32 owned by such person and guaranteed up to fifty thousand dollars  
33 (\$50,000) in the aggregate. The term "independent activity" means  
34 any activity other than one directed solely at increasing guarantee  
35 coverage under this chapter.

36 (e) Unincorporated associations. Investment certificates of an  
37 unincorporated association engaged in any independent activity  
38 shall be guaranteed up to fifty thousand dollars (\$50,000) in the  
39 aggregate. An investment certificate of an unincorporated  
40 association not engaged in an independent activity shall be deemed

1 to be owned by the persons comprising such association and, for  
2 guarantee purposes, the interest of each owner in the investment  
3 certificate shall be added to any other investment certificates  
4 individually owned by such person and guaranteed up to fifty  
5 thousand dollars (\$50,000) in the aggregate.

6 (f) Joint investment certificates.

7 (1) Investment certificates owned jointly, whether as joint  
8 tenants with right of survivorship, as tenants by the entireties, as  
9 tenants in common, or by ~~husband and wife~~ *spouses* as community  
10 property, shall be guaranteed separately from investment  
11 certificates individually owned by the co-owners.

12 (2) A joint investment certificate shall be deemed to exist, for  
13 purposes of guarantee of investment certificates, only if each  
14 co-owner has personally executed an investment certificate  
15 signature card and possesses redemption rights.

16 (3) An investment certificate owned jointly which does not  
17 qualify as a joint investment certificate for purposes of guarantee  
18 of investment certificates shall be treated as owned by the named  
19 persons as individuals and the actual ownership interest of each  
20 such person in such investment certificate shall be added to any  
21 other investment certificates individually owned by such person  
22 and guaranteed up to fifty thousand dollars (\$50,000) in the  
23 aggregate.

24 (4) All joint investment certificates owned by the same  
25 combination of individuals shall first be added together and  
26 guaranteed up to fifty thousand dollars (\$50,000) in the aggregate.

27 (5) The interest of each co-owner in all joint investment  
28 certificates owned by different combinations of individuals shall  
29 then be added together and guaranteed up to fifty thousand dollars  
30 (\$50,000) in the aggregate.

31 (g) Trust investment certificates. All trust interests for the same  
32 beneficiary invested in investment certificates established pursuant  
33 to valid trust arrangements created by the same settlor (grantor)  
34 shall be added together and guaranteed up to fifty thousand dollars  
35 (\$50,000) in the aggregate, separately from other investment  
36 certificates of the trustee of such trust funds or the settlor or  
37 beneficiary of such trust arrangements.

38 (h) Thrift obligations withdrawn by checks that have not cleared  
39 a member's bank account at the time the commissioner has taken  
40 possession of the property and business of a member. The owner

1 of the funds represented by such a check shall be recognized for  
2 all purposes of a claim for guaranteed thrift obligations to the same  
3 extent as if his or her name and interest were disclosed on the  
4 records of the member.

5 SEC. 31. Section 22327 of the Financial Code is amended to  
6 read:

7 22327. No licensee shall knowingly induce any borrower to  
8 split up or divide any loan with any other licensee. No licensee  
9 shall induce or permit any borrower to be or to become obligated  
10 directly or indirectly, or both, under more than one contract of loan  
11 at the same time with the same licensee for the purpose or with  
12 the result of obtaining a higher rate of charge than would otherwise  
13 be permitted by this article, except as otherwise required by the  
14 federal Equal Credit Opportunity Act (15 U.S.C. Sec. 1691 et seq.;  
15 P.L. 93-495) and Regulation B promulgated by the Board of  
16 Governors of the Federal Reserve System (12 C.F.R. 202 et seq.).  
17 For the purpose of this section, “borrower” includes any ~~husband~~  
18 ~~and wife~~, *spouses*, whether jointly or severally obligated.

19 SEC. 32. Section 8552.3 of the Fish and Game Code is  
20 amended to read:

21 8552.3. The commission may, in consultation with  
22 representatives of the commercial herring roe fishery, and after  
23 holding at least one public hearing, adopt regulations intended to  
24 facilitate the transfer of herring permits, including, but not limited  
25 to, regulations that would do the following:

26 (a) Allow an individual to own a single permit for each of the  
27 different herring gillnet platoons in San Francisco Bay.

28 (b) Eliminate the point system for qualifying for a herring  
29 permit.

30 (c) Allow a herring permit to be passed from a parent to child,  
31 or between ~~husband and wife~~. *spouses*.

32 SEC. 33. Section 9359.9 of the Government Code is amended  
33 to read:

34 9359.9. If a beneficiary is not designated, or if the estate is the  
35 beneficiary and the estate would not be probated if no amount were  
36 due from this system, all of the amount due by reason of the death  
37 of a member or retired member, including retirement allowances  
38 accrued but not received prior to death, shall be paid directly  
39 without probate to the surviving next of kin of the deceased, or  
40 the guardians of such survivors’ estates, share and share alike.

1 Such payment shall be made in the same order in which the  
2 following groups are listed:

- 3 1. ~~Husband or wife,~~ *Spouse*,
- 4 2. Children,
- 5 3. Father and mother,
- 6 4. Grandchildren,
- 7 5. Brothers and sisters,
- 8 6. Nieces and nephews.

9 SEC. 34. Section 9374 of the Government Code is amended  
10 to read:

11 9374. Upon the death of a member before retirement (a) the  
12 ~~surviving wife or surviving husband~~ *spouse* of the member, who  
13 has the care of unmarried children, including stepchildren, of the  
14 member who are under 18 years of age, or are incapacitated  
15 because of disability which began before and has continued without  
16 interruption after attainment of that age, or if there is no such  
17 spouse, then (b) the guardian of surviving unmarried children,  
18 including stepchildren, of the member who are under 18 years of  
19 age or so incapacitated, if any, or (c) the ~~surviving wife or surviving~~  
20 ~~husband~~ *spouse* of the member, who does not qualify under (a), if  
21 any, or if no such children under (b) or such spouse under (c), then  
22 (d) each surviving parent of the member, shall be paid the following  
23 applicable survivor allowance, under the conditions stated and  
24 from contributions of the state:

25 (1) ~~A widow or a widower~~ *surviving spouse* who was married  
26 to the member prior to the occurrence of the injury or onset of the  
27 illness that resulted in death, and has the care of unmarried  
28 children, including stepchildren, of the deceased member under  
29 18 years of age or so incapacitated, shall be paid three hundred  
30 sixty dollars (\$360) if there is one such child, or four hundred thirty  
31 dollars (\$430) per month if there are two or more such children.  
32 If there also are such children who are not in the care of the  
33 surviving spouse, the portion of the allowance payable under this  
34 paragraph, assuming that these children were in the care of the  
35 surviving spouse, which is in excess of one hundred eighty dollars  
36 (\$180) per month, shall be divided equally among all of those  
37 children and payments made to the spouse and other children, as  
38 the case may be.

39 (2) If there is no such surviving spouse, or if such surviving  
40 spouse dies or remarries, and if there are unmarried children,

1 including stepchildren, of the deceased member under 18 years of  
2 age, or if there are such children not in the care of such spouse,  
3 such children shall be paid an allowance as follows:

4 (a) If there is only one such child, such child shall be paid one  
5 hundred eighty dollars (\$180) per month;

6 (b) If there are two such children, such children shall be paid  
7 three hundred sixty dollars (\$360) per month divided equally  
8 between them; and

9 (c) If there are three or more such children, such children shall  
10 be paid four hundred thirty dollars (\$430) per month divided  
11 equally among them.

12 (3) ~~A widow or widower~~ *surviving spouse* who has attained or  
13 attains the age of 62 years, and, ~~with respect to both widow and~~  
14 ~~widower~~, *regardless of the gender of the surviving spouse*, who  
15 was married to such member prior to the occurrence of the injury  
16 or onset of the illness that resulted in death, and has not remarried  
17 subsequent to the member's death, shall be paid one hundred eighty  
18 dollars (\$180) per month. No allowance shall be paid under this  
19 subdivision, while the surviving spouse is receiving an allowance  
20 under subdivision (1) of this section, or while an allowance is being  
21 paid under subdivision (2)(c) of this section. The allowance paid  
22 under this subdivision shall be seventy dollars (\$70) per month  
23 while an allowance is being paid under subdivision (2)(b) of this  
24 section.

25 (4) If there is no surviving spouse, or surviving children who  
26 qualify for a survivor allowance, or if such surviving spouse dies  
27 or remarries, or if such children reach age 18 or die or marry prior  
28 thereto, each of the member's dependent mother and father who  
29 has attained or attains the age of 62 years, and who received at  
30 least one-half of his or her support from the member at the time  
31 of the member's death, shall be paid one hundred eighty dollars  
32 (\$180) per month.

33 "Stepchildren," for purposes of this section, shall include only  
34 stepchildren of the member living with him or her in a regular  
35 parent-child relationship at the time of his or her death.

36 SEC. 35. Section 21571 of the Government Code is amended  
37 to read:

38 21571. (a) If the death benefit provided by Section 21532 is  
39 payable on account of a member's death that occurs under  
40 circumstances other than those described in subparagraph (F) of

1 paragraph 1 of subdivision (a) of Section 21530, or if an allowance  
2 under Section 21546 is payable, the payment pursuant to  
3 subdivision (b) shall be made, in the following order of priority:

4 (1) The surviving ~~wife or surviving husband~~ *spouse* of the  
5 member, who has the care of unmarried children, including  
6 stepchildren, of the member who are under 22 years of age, or are  
7 incapacitated because of disability that began before and has  
8 continued without interruption after attainment of that age.

9 (2) The guardian or conservator of surviving unmarried children,  
10 including stepchildren, of the member who are under 22 years of  
11 age or are so incapacitated.

12 (3) The surviving ~~wife or surviving husband~~ *spouse* of the  
13 member, who does not qualify under paragraph (1).

14 (4) Each surviving parent of the member.

15 (b) Regardless of the benefit provided by Section 21532 and of  
16 the beneficiary designated by the member under that section, or  
17 regardless of the allowance provided under Section 21546, the  
18 following applicable 1959 survivor allowance, under the conditions  
19 stated and from contributions of the state, shall be paid:

20 (1) A surviving spouse who was either continuously married to  
21 the member for at least one year prior to death, or was married to  
22 the member prior to the occurrence of the injury or onset of the  
23 illness that resulted in death, and has the care of unmarried  
24 children, including stepchildren, of the deceased member who are  
25 under 22 years of age or are so incapacitated, shall be paid three  
26 hundred sixty dollars (\$360) if there is one child or four hundred  
27 thirty dollars (\$430) per month if there are two or more children.  
28 If there also are children who are not in the care of the surviving  
29 spouse, the portion of the allowance payable under this paragraph,  
30 assuming that these children were in the care of the surviving  
31 spouse, which is in excess of one hundred eighty dollars (\$180)  
32 per month, shall be divided equally among all those children and  
33 payments made to the spouse and other children, as the case may  
34 be.

35 (2) If there is no surviving spouse, or if the surviving spouse  
36 dies, and if there are unmarried children, including stepchildren,  
37 of the deceased member who are under 22 years of age or are so  
38 incapacitated, or if there are children not in the care of the spouse,  
39 the children shall be paid an allowance as follows:

1 (A) If there is only one child, the child shall be paid one hundred  
2 eighty dollars (\$180) per month.

3 (B) If there are two children, the children shall be paid three  
4 hundred sixty dollars (\$360) per month divided equally between  
5 them.

6 (C) If there are three or more children, the children shall be paid  
7 four hundred thirty dollars (\$430) per month divided equally among  
8 them.

9 (3) A surviving spouse who has attained or attains the age of  
10 62 years and, with respect to that surviving spouse, who was either  
11 continuously married to the member for at least one year prior to  
12 death, or who was married to the member prior to the occurrence  
13 of the injury or onset of the illness which resulted in death, shall  
14 be paid one hundred eighty dollars (\$180) per month. No allowance  
15 shall be paid under this paragraph, while the surviving spouse is  
16 receiving an allowance under paragraph (1), or while an allowance  
17 is being paid under subparagraph (C) of paragraph (2). The  
18 allowance paid under this paragraph shall be seventy dollars (\$70)  
19 per month while an allowance is being paid under subparagraph  
20 (B) of paragraph (2).

21 (4) If there is no surviving spouse or surviving child who  
22 qualifies for a 1959 survivor allowance, or if the surviving spouse  
23 dies and there is no surviving child, or if the surviving spouse dies  
24 and the children die or marry or, if not incapacitated, reach age  
25 22, each of the member’s dependent parents who has attained or  
26 attains the age of 62, and who received at least one-half of his or  
27 her support from the member at the time of the member’s death,  
28 shall be paid one hundred eighty dollars (\$180) per month.

29 (c) “Stepchildren,” for purposes of this section, shall include  
30 only stepchildren of the member living with him or her in a regular  
31 parent-child relationship at the time of his or her death.

32 (d) The amendments to this section by Chapter 1617 of the  
33 Statutes of 1971 shall apply only to 1959 survivor allowances  
34 payable April 1, 1972, and thereafter.

35 (e) This section does not apply to any member in the employ  
36 of an employer not subject to this section on January 1, 1994.

37 (f) On and after the date determined by the board, all assets and  
38 liabilities of all contracting agencies subject to this section, and  
39 their employees, on account of benefits provided under this article  
40 shall be pooled into a single account, and a single employer rate

1 shall be established to provide benefits under this section on  
2 account of members employed by a contracting agency that is  
3 subject to this section.

4 (g) The rate of contribution of an employer subject to this section  
5 shall be figured using the term insurance valuation method. If a  
6 contracting agency that is subject to this section is projected to  
7 have a surplus in its 1959 survivor benefit account as of the date  
8 the assets and liabilities are first pooled, the surplus shall be applied  
9 to reduce its rate of contribution. If a contracting agency that is  
10 subject to this section is projected to have a deficit in its 1959  
11 survivor benefit account as of the date the assets and liabilities are  
12 first pooled, its rate of contribution shall be increased until the  
13 projected deficit is paid.

14 SEC. 36. Section 21572 of the Government Code is amended  
15 to read:

16 21572. (a) In lieu of benefits provided in Section 21571, if the  
17 death benefit provided by Section 21532 is payable on account of  
18 a state member's death that occurs under circumstances other than  
19 those described in subparagraph (F) of paragraph (1) of subdivision  
20 (a) of Section 21530, or if an allowance under Section 21546 is  
21 payable, the payment pursuant to subdivision (b) shall be made in  
22 the following order of priority:

23 (1) The ~~surviving wife or surviving husband~~ *spouse* of the  
24 member who has the care of unmarried children, including  
25 stepchildren, of the member who are under 22 years of age or are  
26 incapacitated because of a disability that began before and has  
27 continued without interruption after attainment of that age.

28 (2) The guardian of surviving unmarried children, including  
29 stepchildren, of the member who are under 22 years of age or are  
30 so incapacitated.

31 (3) The ~~surviving wife or surviving husband~~ *spouse* of the  
32 member who does not qualify under paragraph (1).

33 (4) Each surviving parent of the member.

34 (b) Regardless of the benefit provided by Section 21532 and of  
35 the beneficiary designated by the member under that section, or  
36 regardless of the allowance provided under Section 21546, the  
37 following applicable 1959 survivor allowance, under the conditions  
38 stated and from contributions of the state, shall be paid:

39 (1) A surviving spouse who was either continuously married to  
40 the member for at least one year prior to death, or was married to

1 the member prior to the occurrence of the injury or onset of the  
2 illness that resulted in death, and has the care of unmarried  
3 children, including stepchildren, of the deceased member who are  
4 under 22 years of age or are so incapacitated, shall be paid four  
5 hundred fifty dollars (\$450) per month if there is one child or five  
6 hundred thirty-eight dollars (\$538) per month if there are two or  
7 more children. If there also are children who are not in the care of  
8 the surviving spouse, the portion of the allowance payable under  
9 this paragraph, assuming that these children were in the care of  
10 the surviving spouse, that is in excess of two hundred twenty-five  
11 dollars (\$225) per month, shall be divided equally among all those  
12 children and payments made to the spouse and other children, as  
13 the case may be.

14 (2) If there is no surviving spouse, or if the surviving spouse  
15 dies, and if there are unmarried children, including stepchildren,  
16 of the deceased member who are under 22 years of age or are so  
17 incapacitated, or if there are children not in the care of the spouse,  
18 the children shall be paid an allowance as follows:

19 (A) If there is only one child, the child shall be paid two hundred  
20 twenty-five dollars (\$225) per month.

21 (B) If there are two children, the children shall be paid four  
22 hundred fifty dollars (\$450) per month divided equally between  
23 them.

24 (C) If there are three or more children, the children shall be paid  
25 five hundred thirty-eight dollars (\$538) per month divided equally  
26 among them.

27 (3) A surviving spouse who has attained or attains the age of  
28 62 years and, with respect to that surviving spouse, who was either  
29 continuously married to the member for at least one year prior to  
30 death, or was married to the member prior to the occurrence of the  
31 injury or onset of the illness that resulted in death, shall be paid  
32 two hundred twenty-five dollars (\$225) per month. No allowance  
33 shall be paid under this paragraph while the surviving spouse is  
34 receiving an allowance under paragraph (1) or while an allowance  
35 is being paid under subparagraph (C) of paragraph (2). The  
36 allowance paid under this paragraph shall be eighty-eight dollars  
37 (\$88) per month while an allowance is being paid under  
38 subparagraph (B) of paragraph (2).

39 (4) If there is no surviving spouse or surviving child who  
40 qualifies for a 1959 survivor allowance, or if the surviving spouse

1 dies and there is no surviving child, or if the surviving spouse dies  
2 and the children die or marry or, if not incapacitated, reach 22  
3 years of age, each of the member's dependent parents who has  
4 attained or attains the age of 62 years, and who received at least  
5 one-half of his or her support from the member at the time of the  
6 member's death, shall be paid two hundred twenty-five dollars  
7 (\$225) per month.

8 (c) "Stepchildren," for purposes of this section, shall include  
9 only stepchildren of the member living with him or her in a regular  
10 parent-child relationship at the time of his or her death.

11 (d) This section shall apply to beneficiaries receiving 1959  
12 survivor allowances on July 1, 1975, as well as to beneficiaries  
13 with respect to the death of a state member occurring on or after  
14 July 1, 1975.

15 (e) This section shall apply, with respect to benefits payable on  
16 and after July 1, 1981, to all members employed by a school  
17 employer, and school safety members employed with a school  
18 district or community college district as defined in subdivision (i)  
19 of Section 20057, except that it shall not apply, without contract  
20 amendment, with respect to safety members who became members  
21 after July 1, 1981. All assets and liabilities of all school employers,  
22 and their employees, on account of benefits provided under this  
23 article shall be pooled into a single account, and a single employer  
24 rate shall be established to provide benefits under this section on  
25 account of all miscellaneous members employed by a school  
26 employer and all safety members who are members on July 1,  
27 1981.

28 (f) This section does not apply to any member in the employ of  
29 an employer not subject to this section on January 1, 1994.

30 (g) On and after January 1, 2000, all state members covered by  
31 this section shall be covered by the benefit provided under Section  
32 21574.7.

33 (h) On and after the date determined by the board, all assets and  
34 liabilities of all contracting agencies subject to this section, and  
35 their employees, on account of benefits provided under this article  
36 shall be pooled into a single account, and a single employer rate  
37 shall be established to provide benefits under this section on  
38 account of members employed by a contracting agency that is  
39 subject to this section.

1 (i) The rate of contribution of an employer subject to this section  
2 shall be figured using the term insurance valuation method. If a  
3 contracting agency that is subject to this section is projected to  
4 have a surplus in its 1959 survivor benefit account as of the date  
5 the assets and liabilities are first pooled, the surplus shall be applied  
6 to reduce its rate of contribution. If a contracting agency that is  
7 subject to this section is projected to have a deficit in its 1959  
8 survivor benefit account as of the date the assets and liabilities are  
9 first pooled, its rate of contribution shall be increased until the  
10 projected deficit is paid.

11 SEC. 37. Section 21573 of the Government Code is amended  
12 to read:

13 21573. (a) In lieu of benefits provided in Section 21571 or  
14 Section 21572, if the death benefit provided by Section 21532 is  
15 payable on account of a state member's death that occurs under  
16 circumstances other than those described in subparagraph (F) of  
17 paragraph (1) of subdivision (a) of Section 21530, or if an  
18 allowance under Section 21546 is payable, the payment pursuant  
19 to subdivision (b) shall be made in the following order of priority:

20 (1) ~~The surviving wife or surviving husband~~ *spouse* of the  
21 member who has the care of unmarried children, including  
22 stepchildren, of the member who are under 22 years of age or are  
23 incapacitated because of a disability that began before and has  
24 continued without interruption after attainment of that age.

25 (2) The guardian of surviving unmarried children, including  
26 stepchildren, of the member who are under 22 years of age or are  
27 so incapacitated.

28 (3) ~~The surviving wife or surviving husband~~ *spouse* of the  
29 member who does not qualify under paragraph (1).

30 (4) Each surviving parent of the member.

31 (b) Regardless of the benefit provided by Section 21532 and of  
32 the beneficiary designated by the member under that section, or  
33 regardless of the allowance provided under Section 21546, the  
34 following applicable 1959 survivor allowance, under the conditions  
35 stated and from contributions of the state, shall be paid:

36 (1) A surviving spouse who was either continuously married to  
37 the member for at least one year prior to death, or who was married  
38 to the member prior to the occurrence of the injury or onset of the  
39 illness that resulted in death, and has the care of unmarried  
40 children, including stepchildren, of the deceased member who are

1 under 22 years of age or are so incapacitated, shall be paid seven  
2 hundred dollars (\$700) per month if there is one child, or eight  
3 hundred forty dollars (\$840) per month if there are two or more  
4 children. If there also are children who are not in the care of the  
5 surviving spouse, the portion of the allowance payable under this  
6 paragraph, assuming that these children were in the care of the  
7 surviving spouse, that is in excess of three hundred fifty dollars  
8 (\$350) per month, shall be divided equally among all those children  
9 and payments made to the spouse and other children, as the case  
10 may be.

11 (2) If there is no surviving spouse, or if the surviving spouse  
12 dies, and if there are unmarried children, including stepchildren,  
13 of the deceased member who are under 22 years of age or are so  
14 incapacitated, or if there are children not in the care of the spouse,  
15 the children shall be paid an allowance as follows:

16 (A) If there is only one child, the child shall be paid three  
17 hundred fifty dollars (\$350) per month.

18 (B) If there are two children, the children shall be paid seven  
19 hundred dollars (\$700) per month divided equally between them.

20 (C) If there are three or more children, the children shall be paid  
21 eight hundred forty dollars (\$840) per month divided equally  
22 among them.

23 (3) A surviving spouse who has attained or attains the age of  
24 62 years, and, with respect to that surviving spouse, who was either  
25 continuously married to the member for at least one year prior to  
26 death, or who was married to the member prior to the occurrence  
27 of the injury or onset of the illness that resulted in death, shall be  
28 paid three hundred fifty dollars (\$350) per month. No allowance  
29 shall be paid under this paragraph while the surviving spouse is  
30 receiving an allowance under paragraph (1) or while an allowance  
31 is being paid under subparagraph (C) of paragraph (2). The  
32 allowance paid under this paragraph shall be one hundred forty  
33 dollars (\$140) per month while an allowance is being paid under  
34 subparagraph (B) of paragraph (2).

35 (4) If there is no surviving spouse or surviving child who  
36 qualifies for the 1959 survivor allowance, or if the surviving spouse  
37 dies and there is no surviving child, or if the surviving spouse dies  
38 and the children die or marry or, if not incapacitated, reach 22  
39 years of age, each of the member's dependent parents who has  
40 attained or attains the age of 62 years, and who received at least

1 one-half of his or her support from the member at the time of the  
2 member’s death, shall be paid three hundred fifty dollars (\$350)  
3 per month.

4 (c) “Stepchildren,” for purposes of this section, shall include  
5 only stepchildren of the member living with the member in a  
6 regular parent-child relationship at the time of the death of the  
7 member.

8 (d) This section shall apply to beneficiaries of state members  
9 whose death occurred before January 1, 1985. Where a surviving  
10 spouse attained the age of 62 years prior to January 1, 1987,  
11 entitlement shall exist retroactive to January 1, 1985, or to his or  
12 her 62nd birthday, whichever is later. All assets and liabilities of  
13 all state agencies and their employees on account of benefits  
14 provided to beneficiaries specified in this subdivision shall be  
15 pooled into a single account. The board shall transfer from the  
16 reserve for 1959 survivor contributions retained in the retirement  
17 fund an amount sufficient to pay the cost of the increased benefits  
18 provided by this subdivision for beneficiaries of members who  
19 died on or before December 31, 1984.

20 (e) This section shall not apply to beneficiaries with respect to  
21 the death of a state member, except as provided in subdivision (i),  
22 occurring on or after January 1, 1985, unless provided for in a  
23 memorandum of understanding reached pursuant to Section 3517.5,  
24 or authorized by the Director of Personnel Administration for  
25 classifications of state employees that are excluded from, or not  
26 subject to, collective bargaining. The memorandum of  
27 understanding adopting this section shall be controlling without  
28 further legislative action, except that if those provisions of a  
29 memorandum of understanding require the expenditure of funds,  
30 those provisions shall not become effective unless approved by  
31 the Legislature as provided by law.

32 (f) This section shall apply, with respect to benefits payable on  
33 and after January 1, 1985, to school members and to school safety  
34 members, as defined in Section 20444. All assets and liabilities of  
35 all school employers, and their employees, on account of benefits  
36 provided under this article shall be pooled into a single account,  
37 and a single employer rate shall be established to provide benefits  
38 under this section on account of school members employed by a  
39 school employer.

1 (g) This section shall apply to members of a contracting agency  
2 that, in its original contract or by amending its contract, first elects  
3 effective on or after January 1, 1985, and prior to July 1, 2001, to  
4 make this article applicable to local members employed by the  
5 agency. On or after January 1, 1985, and prior to July 1, 2001,  
6 contracting agencies already subject to Section 21571 or Section  
7 21572 may elect by contract amendment to be subject to this  
8 section. All assets and liabilities of all contracting agencies subject  
9 to this section, and their employees, on account of benefits provided  
10 under this article shall be pooled into a single account, and a single  
11 employer rate shall be established to provide benefits under this  
12 section on account of members employed by a contracting agency  
13 that is subject to this section. Any public agency first contracting  
14 with the board on or after January 1, 1994, and prior to July 1,  
15 2001, or any contracting agency amending its contract to remove  
16 exclusions of member classifications on or after January 1, 1994,  
17 and prior to July 1, 2001, that has not, pursuant to Section 418 of  
18 Title 42 of the United States Code, entered into an agreement with  
19 the federal government for the coverage of its employees under  
20 the federal system, shall be subject to this section.

21 (h) The rate of contribution of an employer subject to this section  
22 shall be figured using the term insurance valuation method. If a  
23 contracting agency that is subject to this section has a surplus in  
24 its 1959 survivor benefit account as of the date the contracting  
25 agency becomes subject to this section, the surplus shall be applied  
26 to reduce its rate of contribution. If a contracting agency that is  
27 subject to this section has a deficit in its 1959 survivor benefit  
28 account as of the date the contracting agency becomes subject to  
29 this section, its rate of contribution shall be increased until the  
30 deficit is paid.

31 (i) This section shall not apply to beneficiaries with respect to  
32 the death of a state member employed by the California State  
33 University occurring on or after January 1, 1988, unless provided  
34 for in a memorandum of understanding reached pursuant to Chapter  
35 12 (commencing with Section 3560) of Division 4 of Title 1, or  
36 authorized by the Trustees of the California State University for  
37 employees excluded from collective bargaining. The memorandum  
38 of understanding shall be controlling without further legislative  
39 action, except that if the provisions of a memorandum of  
40 understanding require the expenditure of funds, the provisions

1 shall not become effective unless approved by the Legislature in  
2 the annual Budget Act.

3 (j) This section shall apply to local members employed by a  
4 contracting agency that has included this benefit in its contract  
5 with the board on or before June 30, 2001.

6 (k) This section shall not apply to any contracting agency that  
7 first contracts with the board on or after July 1, 2001.

8 (l) On and after January 1, 2000, all eligible state and school  
9 members covered by this section shall be covered by the benefit  
10 provided under Section 21574.7.

11 SEC. 38. Section 1373.5 of the Health and Safety Code is  
12 amended to read:

13 ~~1373.5. When a husband and wife spouses~~ are both employed  
14 as employees, and both have enrolled themselves and their eligible  
15 family members under a group health care service plan provided  
16 by their respective employers, and each spouse is covered as an  
17 employee under the terms of the same master contract, each spouse  
18 may claim on his or her behalf, or on behalf of his or her enrolled  
19 dependents, the combined maximum contractual benefits to which  
20 an employee is entitled under the terms of the master contract, not  
21 to exceed in the aggregate 100 percent of the charge for the covered  
22 expense or service.

23 This section shall apply to every group plan entered into,  
24 delivered, amended, or renewed in this state on or after January  
25 1, 1978.

26 SEC. 39. Section 18080 of the Health and Safety Code is  
27 amended to read:

28 18080. Ownership registration and title to a manufactured  
29 home, mobilehome, commercial coach, or truck camper, or floating  
30 home subject to registration may be held by two or more coowners  
31 as follows:

32 (a) A manufactured home, mobilehome, commercial coach,  
33 truck camper, or floating home may be registered in the names of  
34 two or more persons as joint tenants. Upon the death of a joint  
35 tenant, the interest of the decedent shall pass to the survivor or  
36 survivors. The signature of each joint tenant or survivor or  
37 survivors, as the case may be, shall be required to transfer or  
38 encumber the title to the manufactured home, mobilehome,  
39 commercial coach, truck camper, or floating home.

1 (b) A manufactured home, mobilehome, commercial coach,  
2 truck camper, or floating home may be registered in the names of  
3 two or more persons as tenants in common. If the names of the  
4 tenants in common are separated by the word “and”, each tenant  
5 in common may transfer his or her individual interest in the  
6 manufactured home, mobilehome, ~~commercial~~ *commercial* coach,  
7 truck camper, or floating home without the signature of the other  
8 tenant or tenants in common. However, the signature of each tenant  
9 in common shall be required to transfer full interest in the title to  
10 a new registered owner. If the names of the tenants in common  
11 are separated by the word “or”, any one of the tenants in common  
12 may transfer full interest in the title to the manufactured home,  
13 mobilehome, commercial coach, truck camper, or floating home  
14 to a new registered owner without the signature of the other tenant  
15 or tenants in common. The signature of each tenant in common is  
16 required in all cases to encumber the title to the manufactured  
17 home, mobilehome, commercial coach, truck camper, or floating  
18 home.

19 (c) A manufactured home, mobilehome, commercial coach,  
20 truck camper, or floating home may be registered as community  
21 property in the names of ~~a husband and wife~~ *the spouses*. The  
22 signature of each spouse shall be required to transfer or encumber  
23 the title to the manufactured home, mobilehome, commercial  
24 coach, truck camper, or floating home.

25 (d) All manufactured homes, mobilehomes, commercial  
26 coaches, truck campers, and floating homes registered, on or before  
27 January 1, 1985, in the names of two or more persons as tenants  
28 in common, as provided in subdivision (b), shall be considered to  
29 be the same as if the names of the tenants in common were  
30 separated by the word “or,” as provided in subdivision (b).

31 SEC. 40. Section 25299.54 of the Health and Safety Code is  
32 amended to read:

33 25299.54. (a) Except as provided in subdivisions (b), (c), (d),  
34 (e), (g), and (h), an owner or operator, required to perform  
35 corrective action pursuant to Section 25296.10, or an owner or  
36 operator who, as of January 1, 1988, is required to perform  
37 corrective action, who has initiated this action in accordance with  
38 Division 7 (commencing with Section 13000) of the Water Code,  
39 who is undertaking corrective action in compliance with waste  
40 discharge requirements or other orders issued pursuant to Division

1 7 (commencing with Section 13000) of the Water Code, or Chapter  
2 6.7 (commencing with Section 25280), may apply to the board for  
3 satisfaction of a claim filed pursuant to this article.

4 (b) A person who has failed to comply with Article 3  
5 (commencing with Section 25299.30) is ineligible to file a claim  
6 pursuant to this section.

7 (c) An owner or operator of an underground storage tank  
8 containing petroleum is ineligible to file a claim pursuant to this  
9 section if the person meets both of the following conditions:

10 (1) The person knew, before January 1, 1988, of the  
11 unauthorized release of petroleum which is the subject of the claim.

12 (2) The person did not initiate, on or before June 30, 1988, any  
13 corrective action in accordance with Division 7 (commencing with  
14 Section 13000) of the Water Code concerning the release, or the  
15 person did not, on or before June 30, 1988, initiate corrective action  
16 in accordance with Chapter 6.7 (commencing with Section 25280)  
17 or the person did not initiate action on or before June 30, 1988, to  
18 come into compliance with waste discharge requirements or other  
19 orders issued pursuant to Division 7 (commencing with Section  
20 13000) of the Water Code concerning the release.

21 (d) An owner or operator who violates Section 25296.10 or a  
22 corrective action order, directive, notification, or approval order  
23 issued pursuant to this chapter, Chapter 6.7 (commencing with  
24 Section 25280) of this code, or Division 7 (commencing with  
25 Section 13000) of the Water Code, is liable for a corrective action  
26 cost that results from the owner's or operator's violation and is  
27 ineligible to file a claim pursuant to this section.

28 (e) Notwithstanding this chapter, a person who owns a tank  
29 located underground that is used to store petroleum may apply to  
30 the board for satisfaction of a claim, and the board may pay the  
31 claim pursuant to Section 25299.57 without making the finding  
32 specified in paragraph (3) of subdivision (d) of Section 25299.57  
33 if all of the following apply:

34 (1) The tank meets one of the following requirements:

35 (A) The tank is located at the residence of a person on property  
36 used exclusively for residential purposes at the time of discovery  
37 of the unauthorized release of petroleum.

38 (B) The tank owner demonstrates that the tank is located on  
39 property that, on and after January 1, 1985, is not used for  
40 agricultural purposes, the tank is of a type specified in

1 subparagraph (B) of paragraph (1) of subdivision (y) of Section  
2 25281, and the petroleum in the tank is used solely for the purposes  
3 specified in subparagraph (B) of paragraph (1) of subdivision (y)  
4 of Section 25281 on and after January 1, 1985.

5 (2) The tank is not a tank described in subparagraph (A) of  
6 paragraph (1) of subdivision (y) of Section 25281 and the tank is  
7 not used on or after January 1, 1985, for the purposes specified in  
8 that subparagraph.

9 (3) The claimant has complied with Section 25299.31 and the  
10 permit requirements of Chapter 6.7 (commencing with Section  
11 25280), or the claimant is not subject to the requirements of those  
12 provisions.

13 (f) Whenever the board has authorized the prepayment of a  
14 claim pursuant to Section 25299.57, and the amount of money  
15 available in the fund is insufficient to pay the claim, the owner or  
16 operator shall remain obligated to undertake the corrective action  
17 in accordance with Section 25296.10.

18 (g) The board shall not reimburse a claimant for any eligible  
19 costs for which the claimant has been, or will be, compensated by  
20 another person. This subdivision does not affect reimbursement  
21 of a claimant from the fund under either of the following  
22 circumstances:

23 (1) The claimant has a written contract, other than an insurance  
24 contract, with another person that requires the claimant to  
25 reimburse the person for payments the person has provided the  
26 claimant pending receipt of reimbursement from the fund.

27 (2) An insurer has made payments on behalf of the claimant  
28 pursuant to an insurance contract and either of the following  
29 applies:

30 (A) The insurance contract explicitly coordinates insurance  
31 benefits with the fund and requires the claimant to do both of the  
32 following:

33 (i) Maintain the claimant's eligibility for reimbursement of costs  
34 pursuant to this chapter by complying with all applicable eligibility  
35 requirements.

36 (ii) Reimburse the insurer for costs paid by the insurer pending  
37 reimbursement of those costs by the fund.

38 (B) The claimant received a letter of commitment prior to June  
39 30, 1999, for the occurrence and the claimant is required to

1 reimburse the insurer for any costs paid by the insurer pending  
2 reimbursement of those costs by the fund.

3 (h) (1) Except as provided in paragraph (2), a person who  
4 purchases or otherwise acquires real property on which an  
5 underground storage tank or tank specified in subdivision (e) is  
6 situated shall not be reimbursed by the board for a cost attributable  
7 to an occurrence that commenced prior to the acquisition of the  
8 real property if both of the following conditions apply:

9 (A) The purchaser or acquirer knew, or in the exercise of  
10 reasonable diligence would have discovered, that an underground  
11 storage tank or tank specified in subdivision (e) was located on  
12 the real property being acquired.

13 (B) A person who owned the site or owned or operated an  
14 underground storage tank or tank specified in subdivision (e) at  
15 the site during or after the occurrence and prior to acquisition by  
16 the purchaser or acquirer would not have been eligible for  
17 reimbursement from the fund.

18 (2) Notwithstanding paragraph (1), if the claim is filed on or  
19 after January 1, 2003, the board may reimburse the eligible costs  
20 claimed by a person who purchases or otherwise acquires real  
21 property on which an underground storage tank or tank specified  
22 in subdivision (e) is situated, if all of the following conditions  
23 apply:

24 (A) The claimant is the owner or operator of the underground  
25 storage tank or tank specified in subdivision (e) that had an  
26 occurrence that commenced prior to the owner's acquisition of the  
27 real property.

28 (B) The claimant satisfies all eligibility requirements, other than  
29 those specified in paragraph (1).

30 (C) The claimant is not an affiliate of a person whose act or  
31 omission caused or would cause ineligibility for the fund.

32 (3) If the board reimburses a claim pursuant to paragraph (2),  
33 a person specified in subparagraph (B) of paragraph (1), other than  
34 a person who is ineligible for reimbursement from the fund solely  
35 because the property was acquired from another person who was  
36 ineligible for reimbursement from the fund, shall be liable for the  
37 amount paid from the fund. The Attorney General, upon request  
38 of the board, shall bring a civil action to recover the liability  
39 imposed under this paragraph. All money recovered by the

1 Attorney General under this paragraph shall be deposited in the  
2 fund.

3 (4) The liability established pursuant to paragraph (3) does not  
4 limit or supersede liability under any other provision of state or  
5 federal law, including common law.

6 (5) For purposes of this subdivision, the following definitions  
7 shall apply:

8 (A) “Affiliate” means a person who has one or more of the  
9 following relationships with another person:

- 10 (i) Familial relationship.
- 11 (ii) Fiduciary relationship.
- 12 (iii) A relationship of direct or indirect control or shared  
13 interests.
- 14 (B) Affiliates include, but are not limited to, any of the  
15 following:
  - 16 (i) Parent corporation and subsidiary.
  - 17 (ii) Subsidiaries that are owned by the same parent corporation.
  - 18 (iii) Business entities involved in a reorganization, as defined  
19 in Section 181 of the Corporations Code.
  - 20 (iv) Corporate officer and corporation.
  - 21 (v) Shareholder that owns a controlling block of voting stock  
22 and the corporation.
  - 23 (vi) Partner and the partnership.
  - 24 (vii) Member and a limited liability company.
  - 25 (viii) Franchiser and franchisee.
  - 26 (ix) Settlor, trustee, and beneficiary of a trust.
  - 27 (x) Debtor and bankruptcy trustee or debtor-in-possession.
  - 28 (xi) Principal and agent.

29 (C) “Familial relationship” means relationships between family  
30 members, including, and limited to, a ~~husband, wife,~~ *spouse*, child,  
31 stepchild, parent, grandparent, grandchild, brother, sister,  
32 stepbrother, stepsister, stepmother, stepfather, mother-in-law,  
33 father-in-law, brother-in-law, sister-in-law, daughter-in-law,  
34 son-in-law, and, if related by blood, uncle, aunt, niece, or nephew.

35 (D) “Purchases or otherwise acquires real property” means the  
36 acquisition of fee title ownership or the acquisition of the lessee’s  
37 interest in a ground lease of real property on which one or more  
38 underground storage tanks are located if the lease has an initial  
39 original term, including unilateral extension or renewal rights, of  
40 not less than 35 years.

1 (i) The Legislature finds and declares that the changes made to  
2 subparagraph (A) of paragraph (1) of subdivision (e) by Chapter  
3 1290 of the Statutes of 1992 are declaratory of existing law.

4 (j) The Legislature finds and declares that the amendment of  
5 subdivisions (a) and (g) by Chapter 328 of the Statutes of 1999 is  
6 declaratory of existing law.

7 SEC. 41. Section 32501 of the Health and Safety Code is  
8 amended to read:

9 32501. Any person desiring in his *or her* lifetime to promote  
10 the public welfare by founding, endowing, and having maintained  
11 within this State a hospital for the relief of the sick, and for use as  
12 a training school for nurses may, by grant in writing, convey to a  
13 trustee named in the grant and to the successor of such trustee, any  
14 of his *or her* property situated within this State. If he *or she* is  
15 married and the property is community, both ~~he and his wife~~  
16 *spouses* shall join in the grant.

17 SEC. 42. Section 10112 of the Insurance Code is amended to  
18 read:

19 10112. Subject to Section 2459 of the Probate Code, in respect  
20 to life or disability insurance, or annuity contracts (except as  
21 provided in Sections 2500 to 2507, inclusive, of the Probate Code  
22 and Section 3500 of the Probate Code and Chapter 4 (commencing  
23 with Section 3600) of Part 8 of Division 4 of the Probate Code),  
24 heretofore or hereafter issued to or upon the life of any person not  
25 of the full age of 18 years for the benefit of such minor or for the  
26 benefit of the father, mother, ~~husband, wife,~~ *spouse*, child, brother,  
27 or sister, of such minor, or issued to such minor, subject to written  
28 consent of a parent or guardian, upon the life of any person in  
29 whom such minor has an insurable interest for the benefit of  
30 himself or such minor's father, mother, ~~husband, wife,~~ *spouse*,  
31 child, brother or sister, such minor shall not, by reason only of  
32 such minority, be deemed incompetent to contract for such  
33 insurance or annuity, or for the surrender thereof, or to exercise  
34 all contractual rights thereunder, or, subject to approval of a parent  
35 or guardian, to give a valid discharge for any benefit accruing or  
36 for any money payable thereunder; provided, that all such contracts  
37 made by a minor under the age of 16 years, as determined by the  
38 nearest birthday, shall have the written consent of a parent or  
39 guardian, and that the exercise of all contractual rights under such  
40 contracts, or the surrender thereof, or the giving of a valid discharge

1 for any benefit accruing or money payable thereunder, in the case  
2 of a minor under the age of 16 years, as determined by the nearest  
3 birthday, shall have the written consent of a parent or guardian.

4 All such contracts made by a minor not of the full age of 18  
5 years which may result in any personal liability for assessment  
6 shall have the written assumption of any such liability by a parent  
7 or guardian in consideration of the issuance of the contract. Such  
8 assumption shall be in a form approved by the commissioner,  
9 reasonably designed to inform the parent or guardian of the liability  
10 thus assumed.

11 Such assumption of liability may be made a part of and included  
12 with any written consent of such parent or guardian required under  
13 other provisions of this section and it may be provided therein that  
14 such assumption shall cover only up to the anniversary date of the  
15 policy nearest to the member's birthday at which he or she attains  
16 age 18.

17 SEC. 43. Section 10121.5 of the Insurance Code is amended  
18 to read:

19 10121.5. (a) ~~When a husband and wife~~ *spouses* are both  
20 employed as employees, and both have enrolled themselves and  
21 their eligible family members under a group policy of disability  
22 insurance provided by their respective employers, and each spouse  
23 is covered as an employee under the terms of the same master  
24 policy, each spouse may claim on his or her behalf, or on behalf  
25 of his or her enrolled dependents, the combined maximum  
26 contractual benefits to which an employee is entitled under the  
27 terms of the master policy, not to exceed in the aggregate 100  
28 percent of the charge for the covered expense or service.

29 (b) ~~When a husband and wife~~ *spouses* are both employed as  
30 employees, and both have enrolled themselves and their eligible  
31 family members under a self-insured employee welfare benefit  
32 plan provided by their respective employers, and each spouse is  
33 covered as an employee under the terms of the same master  
34 contract, each spouse may claim on his or her behalf, or on behalf  
35 of his or her enrolled dependents, the combined maximum  
36 contractual benefits to which an employee is entitled under the  
37 terms of the master contract, not to exceed in the aggregate 100  
38 percent of the charge for the covered expense or service.

39 (c) This section shall apply to every group disability insurance  
40 policy and self-insured employee welfare benefit plan which is

1 entered into, issued, delivered, amended, or renewed in this state  
2 on or after January 1, 1978.

3 SEC. 44. Section 10320 of the Insurance Code is amended to  
4 read:

5 10320. No policy of accident and sickness insurance shall be  
6 delivered or issued for delivery to any person in this State unless:

7 (a) The entire money and other considerations therefor are  
8 expressed therein; and

9 (b) The time at which the insurance takes effect and terminates  
10 is expressed therein; and

11 (c) It purports to insure only one person, except that a policy  
12 may insure, originally or by subsequent amendment, upon the  
13 application of the head of a family who shall be deemed the  
14 policyholder, any two or more eligible members of that family,  
15 including ~~husband, wife,~~ *spouse*, dependent children or any  
16 children under a specified age which shall not exceed 19 years and  
17 any other person dependent upon the policyholder; and

18 (d) The style, arrangement and over-all appearance of the policy  
19 give no undue prominence to any portion of the text, and unless  
20 every printed portion of the text of the policy and of any  
21 endorsements or attached papers is plainly printed in light-faced  
22 type of a style in general use, the size of which shall be uniform  
23 and not less than 10-point with a lower case unspaced alphabet  
24 length not less than 120-point (the “text” shall include all printed  
25 matter except the name and address of the insurer, name or title  
26 of the policy, the brief description, if any, and captions and  
27 subcaptions); and

28 (e) The exceptions and reductions of indemnity are set forth in  
29 the policy and, except those which are set forth in Article 4a or 5a  
30 of this chapter, are printed, at the insurer’s option, either included  
31 with the benefit provision to which they apply, or under an  
32 appropriate caption such as “Exceptions,” or “Exceptions and  
33 Reductions”; provided, that if an exception or reduction specifically  
34 applies only to a particular benefit of the policy, a statement of  
35 such exception or reduction shall be included with the benefit  
36 provision to which it applies; and

37 (f) Each such form, including riders and endorsements, shall be  
38 identified by a form number in the lower left-hand corner of the  
39 first page thereof; and

1 (g) It contains no provision purporting to make any portion of  
2 the charter, rules, constitution, or by-laws of the insurer a part of  
3 the policy unless such portion is set forth in full in the policy,  
4 except in the case of the incorporation of, or reference to, a  
5 statement of rates or classification of risks, or short-rate table filed  
6 with the commissioner; and

7 (h) If the policy contains amendment, change, limitation,  
8 alteration, or restriction of the printed text by endorsement, or by  
9 any means other than rider upon a separate piece of paper made a  
10 part of such policy; and

11 (i) If any portion of such policy purports to reduce benefits by  
12 reason of age of the insured and such reduction, in accordance  
13 with the age of the insured as stated in his *or her* application, would  
14 be effective on the issue date of the policy.

15 SEC. 45. Section 10493 of the Insurance Code is amended to  
16 read:

17 10493. Any incorporated or unincorporated benefit and relief  
18 association organized before January 15, 1951, may procure a  
19 certificate of exemption from the commissioner if it complies with  
20 all of the following:

21 (a) All of the other requirements of this article.

22 (b) As respects life or disability or life and disability insurance  
23 transacted by it, it is of an entirely nonprofit nature.

24 (c) Any one of the following requirements as to membership  
25 and purpose:

26 (1) It is composed of and its membership limited to the  
27 appointive officers and employees of a public school district or  
28 districts and/or the pupils of any such district or districts, or of any  
29 private school or schools.

30 (2) It is composed of and its membership limited to the  
31 appointive officers and employees of a municipal playground  
32 system, or the systems of two or more municipalities united in a  
33 league, federation or other association for the purpose of promoting  
34 intercity competitions or other activities, and/or the participants  
35 in dancing, recreational, sporting, educational, social and/or  
36 theatrical activities sponsored and/or directed by such system or  
37 systems and carried on through the use of any of the facilities of  
38 such system or systems.

1 (3) Its membership in this state is 1,000 or more and it is either  
2 an organization of a purely religious or benevolent character or its  
3 membership is limited to the members of such an organization.

4 (4) It is composed of and its membership is limited to the  
5 members of another organization which other organization is of a  
6 purely religious or benevolent character and has a total membership  
7 in this state of not less than 1,000.

8 (5) It is a domestic organization, lodge, society or order which  
9 prior to September 19, 1947, provided life or disability benefits  
10 or both such benefits to its members and

11 (A) Is of a charitable, benevolent or beneficent character or  
12 becomes such within one year from September 4, 1951, and in  
13 both instances is thereafter of such character, and

14 (B) Operates in such a manner that the payment of such benefits  
15 even though it be one of the express purposes of such organization,  
16 lodge or order, is as a matter of fact incidental to its charitable,  
17 benevolent or beneficent purposes or within one year from  
18 September 4, 1951, operates in such a manner and in both instances  
19 thereafter operates in such a manner.

20 (6) Officers and employees of a common employer, and related  
21 dependents of such officers and employees, comprising ~~wives;~~  
22 ~~husbands~~ *spouses* and unmarried dependent children under 19  
23 years of age, and living in the same household.

24 (d) Pays a filing fee in the amount of seven hundred eight dollars  
25 (\$708).

26 SEC. 46. Section 10494.6 of the Insurance Code is amended  
27 to read:

28 10494.6. Any employer who qualifies for a certificate of  
29 exemption under Section 10494.5 by virtue of which certificate  
30 he or she maintains a plan for furnishing disability benefits to his  
31 or her employees may, if he or she elects, make available for the  
32 related dependents of his or her employees, comprising ~~wives;~~  
33 ~~husbands~~ *spouses* and unmarried dependent children living in the  
34 same household, a supplemental plan of disability benefits  
35 containing any or all of the following benefits, hospital, surgical  
36 and medical; provided, that as to the supplemental plan the  
37 Insurance Commissioner finds that all of the following exist:

38 (a) The supplemental plan shall be separately stated, setting out  
39 all of the provisions of coverage.

1 (b) The plan shall set out the respective contributions of the  
2 employer and employees. All contributions of employees received  
3 or retained by the employer shall be trust funds and shall be  
4 separately accounted for by the employer and may not inure to the  
5 benefit of the employer in any manner whatsoever.

6 (c) The plan permits the disabled individual a free choice of  
7 physician and surgeon, or podiatrist in the case of those services  
8 that are within the scope of practice of podiatric medicine, as  
9 defined in Section 2472 of the Business and Professions Code,  
10 and hospital.

11 (d) The employer agrees to assume 50 percent of the cost of  
12 maintaining the plan, and he or she further agrees to guarantee the  
13 benefits if the contributions required for the supplementary benefits  
14 are not sufficient to pay the cost of same. The funds necessary to  
15 discharge the employer's 50 percent assumption shall be trust  
16 funds and shall be separately accounted for by him or her.

17 SEC. 47. Section 3503 of the Labor Code is amended to read:

18 3503. No person is a dependent of any deceased employee  
19 unless in good faith a member of the family or household of the  
20 employee, or unless the person bears to the employee the relation  
21 of ~~husband or wife~~, *spouse*, child, posthumous child, adopted child  
22 or stepchild, grandchild, father or mother, father-in-law or  
23 mother-in-law, grandfather or grandmother, brother or sister, uncle  
24 or aunt, brother-in-law or sister-in-law, nephew or niece.

25 SEC. 48. Section 152.3 of the Penal Code is amended to read:

26 152.3. (a) Any person who reasonably believes that he or she  
27 has observed the commission of any of the following offenses  
28 where the victim is a child under the age of 14 years shall notify  
29 a peace officer, as defined in Chapter 4.5 (commencing with  
30 Section 830) of Title 3 of Part 2:

31 (1) Murder.

32 (2) Rape.

33 (3) A violation of paragraph (1) of subdivision (b) of Section  
34 288 of the Penal Code.

35 (b) This section shall not be construed to affect privileged  
36 relationships as provided by law.

37 (c) The duty to notify a peace officer imposed pursuant to  
38 subdivision (a) is satisfied if the notification or an attempt to  
39 provide notice is made by telephone or any other means.

1 (d) Failure to notify as required pursuant to subdivision (a) is a  
2 misdemeanor and is punishable by a fine of not more than one  
3 thousand five hundred dollars (\$1,500), by imprisonment in a  
4 county jail for not more than six months, or by both that fine and  
5 imprisonment.

6 (e) The requirements of this section shall not apply to the  
7 following:

8 (1) A person who is related to either the victim or the offender,  
9 including a ~~husband, wife,~~ *spouse*, parent, child, brother, sister,  
10 grandparent, grandchild, or other person related by consanguinity  
11 or affinity.

12 (2) A person who fails to report based on a reasonable mistake  
13 of fact.

14 (3) A person who fails to report based on a reasonable fear for  
15 his or her own safety or for the safety of his or her family.

16 SEC. 49. Section 197 of the Penal Code is amended to read:

17 197. Homicide is also justifiable when committed by any person  
18 in any of the following cases:

19 1. When resisting any attempt to murder any person, or to  
20 commit a felony, or to do some great bodily injury upon any  
21 person; or,

22 2. When committed in defense of habitation, property, or person,  
23 against one who manifestly intends or endeavors, by violence or  
24 surprise, to commit a felony, or against one who manifestly intends  
25 and endeavors, in a violent, riotous or tumultuous manner, to enter  
26 the habitation of another for the purpose of offering violence to  
27 any person therein; or,

28 3. When committed in the lawful defense of such person, or of  
29 a ~~wife or husband,~~ *spouse*, parent, child, master, mistress, or servant  
30 of such person, when there is reasonable ground to apprehend a  
31 design to commit a felony or to do some great bodily injury, and  
32 imminent danger of such design being accomplished; but such  
33 person, or the person in whose behalf the defense was made, if he  
34 was the assailant or engaged in mutual combat, must really and in  
35 good faith have endeavored to decline any further struggle before  
36 the homicide was committed; or,

37 4. When necessarily committed in attempting, by lawful ways  
38 and means, to apprehend any person for any felony committed, or  
39 in lawfully suppressing any riot, or in lawfully keeping and  
40 preserving the peace.

1 SEC. 50. Section 270e of the Penal Code is amended to read:

2 270e. No other evidence shall be required to prove marriage  
3 of ~~husband and wife~~, *spouses*, or that a person is the lawful father  
4 or mother of a child or children, than is or shall be required to  
5 prove such facts in a civil action. In all prosecutions under either  
6 Section 270a or 270 of this code, Sections 970, 971, and 980 of  
7 the Evidence Code do not apply, and both ~~husband and wife~~  
8 *spouses* shall be competent to testify to any and all relevant matters,  
9 including the fact of marriage and the parentage of a child or  
10 children. Proof of the abandonment and nonsupport of a spouse,  
11 or of the omission to furnish necessary food, clothing, shelter, or  
12 of medical attendance for a child or children is prima facie evidence  
13 that such abandonment and nonsupport or omission to furnish  
14 necessary food, clothing, shelter or medical attendance is willful.  
15 In any prosecution under Section 270, it shall be competent for  
16 the people to prove nonaccess of husband to wife or any other fact  
17 establishing nonpaternity of a husband. In any prosecution pursuant  
18 to Section 270, the final establishment of paternity or nonpaternity  
19 in another proceeding shall be admissible as evidence of paternity  
20 or nonpaternity.

21 SEC. 51. Section 273.5 of the Penal Code is amended to read:

22 273.5. (a) Any person who willfully inflicts corporal injury  
23 resulting in a traumatic condition upon a victim described in  
24 subdivision (b) is guilty of a felony, and upon conviction thereof  
25 shall be punished by imprisonment in the state prison for two,  
26 three, or four years, or in a county jail for not more than one year,  
27 or by a fine of up to six thousand dollars (\$6,000), or by both that  
28 fine and imprisonment.

29 (b) Subdivision (a) shall apply if the victim is or was one or  
30 more of the following:

- 31 (1) The offender's spouse or former spouse.
- 32 (2) The offender's cohabitant or former cohabitant.
- 33 (3) The offender's fiancé or fiancée, or someone with whom  
34 the offender has, or previously had, an engagement or dating  
35 relationship, as defined in paragraph (10) of subdivision (f) of  
36 Section 243.

37 (4) The mother or father of the offender's child.

38 (c) Holding oneself out to be the ~~husband or wife~~ *spouse* of the  
39 person with whom one is cohabiting is not necessary to constitute  
40 cohabitation as the term is used in this section.

1 (d) As used in this section, “traumatic condition” means a  
2 condition of the body, such as a wound, or external or internal  
3 injury, including, but not limited to, injury as a result of  
4 strangulation or suffocation, whether of a minor or serious nature,  
5 caused by a physical force. For purposes of this section,  
6 “strangulation” and “suffocation” include impeding the normal  
7 breathing or circulation of the blood of a person by applying  
8 pressure on the throat or neck.

9 (e) For the purpose of this section, a person shall be considered  
10 the father or mother of another person’s child if the alleged male  
11 parent is presumed the natural father under Sections 7611 and 7612  
12 of the Family Code.

13 (f) (1) Any person convicted of violating this section for acts  
14 occurring within seven years of a previous conviction under  
15 subdivision (a), or subdivision (d) of Section 243, or Section 243.4,  
16 244, 244.5, or 245, shall be punished by imprisonment in a county  
17 jail for not more than one year, or by imprisonment in the state  
18 prison for two, four, or five years, or by both imprisonment and a  
19 fine of up to ten thousand dollars (\$10,000).

20 (2) Any person convicted of a violation of this section for acts  
21 occurring within seven years of a previous conviction under  
22 subdivision (e) of Section 243 shall be punished by imprisonment  
23 in the state prison for two, three, or four years, or in a county jail  
24 for not more than one year, or by a fine of up to ten thousand  
25 dollars (\$10,000), or by both that imprisonment and fine.

26 (g) If probation is granted to any person convicted under  
27 subdivision (a), the court shall impose probation consistent with  
28 the provisions of Section 1203.097.

29 (h) If probation is granted, or the execution or imposition of a  
30 sentence is suspended, for any defendant convicted under  
31 subdivision (a) who has been convicted of any prior offense  
32 specified in subdivision (f), the court shall impose one of the  
33 following conditions of probation:

34 (1) If the defendant has suffered one prior conviction within the  
35 previous seven years for a violation of any offense specified in  
36 subdivision (f), it shall be a condition of probation, in addition to  
37 the provisions contained in Section 1203.097, that he or she be  
38 imprisoned in a county jail for not less than 15 days.

39 (2) If the defendant has suffered two or more prior convictions  
40 within the previous seven years for a violation of any offense

1 specified in subdivision (f), it shall be a condition of probation, in  
2 addition to the provisions contained in Section 1203.097, that he  
3 or she be imprisoned in a county jail for not less than 60 days.

4 (3) The court, upon a showing of good cause, may find that the  
5 mandatory imprisonment required by this subdivision shall not be  
6 imposed and shall state on the record its reasons for finding good  
7 cause.

8 (i) If probation is granted upon conviction of a violation of  
9 subdivision (a), the conditions of probation may include, consistent  
10 with the terms of probation imposed pursuant to Section 1203.097,  
11 in lieu of a fine, one or both of the following requirements:

12 (1) That the defendant make payments to a battered women's  
13 shelter, up to a maximum of five thousand dollars (\$5,000),  
14 pursuant to Section 1203.097.

15 (2) (A) That the defendant reimburse the victim for reasonable  
16 costs of counseling and other reasonable expenses that the court  
17 finds are the direct result of the defendant's offense.

18 (B) For any order to pay a fine, make payments to a battered  
19 women's shelter, or pay restitution as a condition of probation  
20 under this subdivision, the court shall make a determination of the  
21 defendant's ability to pay. An order to make payments to a battered  
22 women's shelter shall not be made if it would impair the ability  
23 of the defendant to pay direct restitution to the victim or  
24 court-ordered child support. If the injury to a married person is  
25 caused in whole or in part by the criminal acts of his or her spouse  
26 in violation of this section, the community property may not be  
27 used to discharge the liability of the offending spouse for restitution  
28 to the injured spouse, required by Section 1203.04, as operative  
29 on or before August 2, 1995, or Section 1202.4, or to a shelter for  
30 costs with regard to the injured spouse and dependents, required  
31 by this section, until all separate property of the offending spouse  
32 is exhausted.

33 (j) Upon conviction under subdivision (a), the sentencing court  
34 shall also consider issuing an order restraining the defendant from  
35 any contact with the victim, which may be valid for up to 10 years,  
36 as determined by the court. It is the intent of the Legislature that  
37 the length of any restraining order be based upon the seriousness  
38 of the facts before the court, the probability of future violations,  
39 and the safety of the victim and his or her immediate family. This  
40 protective order may be issued by the court whether the defendant

1 is sentenced to state prison or county jail, or if imposition of  
2 sentence is suspended and the defendant is placed on probation.

3 (k) If a peace officer makes an arrest for a violation of this  
4 section, the peace officer is not required to inform the victim of  
5 his or her right to make a citizen's arrest pursuant to subdivision  
6 (b) of Section 836.

7 SEC. 52. Section 281 of the Penal Code is amended to read:

8 281. (a) Every person having a ~~husband or wife~~ *spouse* living,  
9 who marries any other person, except in the cases specified in  
10 Section 282, is guilty of bigamy.

11 (b) Upon a trial for bigamy, it is not necessary to prove either  
12 of the marriages by the register, certificate, or other record evidence  
13 thereof, but the marriages may be proved by evidence which is  
14 admissible to prove a marriage in other cases; and when the second  
15 marriage took place out of this state, proof of that fact,  
16 accompanied with proof of cohabitation thereafter in this state, is  
17 sufficient to sustain the charge.

18 SEC. 53. Section 282 of the Penal Code is amended to read:

19 282. Section 281 does not extend to any of the following:

20 (a) To any person by reason of any former marriage whose  
21 ~~husband or wife~~ *spouse* by such marriage has been absent for five  
22 successive years without being known to such person within that  
23 time to be living.

24 (b) To any person by reason of any former marriage which has  
25 been pronounced void, annulled, or dissolved by the judgment of  
26 a competent court.

27 SEC. 54. Section 284 of the Penal Code is amended to read:

28 284. Every person who knowingly and willfully marries the  
29 ~~husband or wife~~ *spouse* of another, in any case in which such  
30 ~~husband or wife~~ *spouse* would be punishable under the provisions  
31 of this chapter, is punishable by fine not less than five thousand  
32 dollars (\$5,000), or by imprisonment pursuant to subdivision (h)  
33 of Section 1170.

34 SEC. 55. Section 534 of the Penal Code is amended to read:

35 534. Every married person who falsely and fraudulently  
36 represents himself or herself as competent to sell or mortgage any  
37 real estate, to the validity of which sale or mortgage the assent or  
38 concurrence of his ~~wife or her husband~~ *or her spouse* is necessary,  
39 and under such representations willfully conveys or mortgages the  
40 same, is guilty of felony.

1 SEC. 56. Section 4002 of the Penal Code is amended to read:

2 4002. (a) Persons committed on criminal process and detained  
3 for trial, persons convicted and under sentence, and persons  
4 committed upon civil process, shall not be kept or put in the same  
5 room, nor shall male and female prisoners, except ~~husband and~~  
6 ~~wife~~, *spouses*, sleep, dress or undress, bathe, or perform eliminatory  
7 functions in the same room. However, persons committed on  
8 criminal process and detained for trial may be kept or put in the  
9 same room with persons convicted and under sentence for the  
10 purpose of participating in supervised activities and for the purpose  
11 of housing, provided, that the housing occurs as a result of a  
12 classification procedure that is based upon objective criteria,  
13 including consideration of criminal sophistication, seriousness of  
14 crime charged, presence or absence of assaultive behavior, age,  
15 and other criteria that will provide for the safety of the prisoners  
16 and staff.

17 (b) Inmates who are held pending civil process under the  
18 sexually violent predator laws shall be held in administrative  
19 segregation. For purposes of this subdivision, administrative  
20 segregation means separate and secure housing that does not  
21 involve any deprivation of privileges other than what is necessary  
22 to protect the inmates and staff. Consistent with Section 1610, to  
23 the extent possible, the person shall continue in his or her course  
24 of treatment, if any. An alleged sexually violent predator held  
25 pending civil process may waive placement in secure housing by  
26 petitioning the court for a waiver. In order to grant the waiver, the  
27 court must find that the waiver is voluntary and intelligent, and  
28 that granting the waiver would not interfere with any treatment  
29 programming for the person requesting the waiver. A person  
30 granted a waiver shall be placed with inmates charged with similar  
31 offenses or with similar criminal histories, based on the objective  
32 criteria set forth in subdivision (a).

33 (c) Nothing in this section shall be construed to impose any  
34 requirement upon a county to confine male and female prisoners  
35 in the same or an adjoining facility or impose any duty upon a  
36 county to establish or maintain programs which involve the joint  
37 participation of male and female prisoners.

38 SEC. 57. Section 13700 of the Penal Code is amended to read:

39 13700. As used in this title:

1 (a) “Abuse” means intentionally or recklessly causing or  
2 attempting to cause bodily injury, or placing another person in  
3 reasonable apprehension of imminent serious bodily injury to  
4 himself or herself, or another.

5 (b) “Domestic violence” means abuse committed against an  
6 adult or a minor who is a spouse, former spouse, cohabitant, former  
7 cohabitant, or person with whom the suspect has had a child or is  
8 having or has had a dating or engagement relationship. For  
9 purposes of this subdivision, “cohabitant” means two unrelated  
10 adult persons living together for a substantial period of time,  
11 resulting in some permanency of relationship. Factors that may  
12 determine whether persons are cohabiting include, but are not  
13 limited to, (1) sexual relations between the parties while sharing  
14 the same living quarters, (2) sharing of income or expenses, (3)  
15 joint use or ownership of property, (4) whether the parties hold  
16 themselves out as ~~husband and wife~~, *spouses*, (5) the continuity  
17 of the relationship, and (6) the length of the relationship.

18 (c) “Officer” means any officer or employee of a local police  
19 department or sheriff’s office, and any peace officer of the  
20 Department of the California Highway Patrol, the Department of  
21 Parks and Recreation, the University of California Police  
22 Department, or the California State University and College Police  
23 Departments, as defined in Section 830.2, a peace officer of the  
24 Department of General Services of the City of Los Angeles, as  
25 defined in subdivision (c) of Section 830.31, a housing authority  
26 patrol officer, as defined in subdivision (d) of Section 830.31, a  
27 peace officer as defined in subdivisions (a) and (b) of Section  
28 830.32, or a peace officer as defined in subdivision (a) of Section  
29 830.33.

30 (d) “Victim” means a person who is a victim of domestic  
31 violence.

32 SEC. 58. Section 59 of the Probate Code is amended to read:

33 59. “Predeceased spouse” means a person who died before the  
34 decedent while married to the decedent, except that the term does  
35 not include any of the following:

36 (a) A person who obtains or consents to a final decree or  
37 judgment of dissolution of marriage from the decedent or a final  
38 decree or judgment of annulment of their marriage, which decree  
39 or judgment is not recognized as valid in this state, unless they (1)  
40 subsequently participate in a marriage ceremony purporting to

1 marry each to the other or (2) subsequently live together as ~~husband~~  
2 ~~and wife~~. *spouses*.

3 (b) A person who, following a decree or judgment of dissolution  
4 or annulment of marriage obtained by the decedent, participates  
5 in a marriage ceremony to a third person.

6 (c) A person who was a party to a valid proceeding concluded  
7 by an order purporting to terminate all marital property rights.

8 SEC. 59. Section 78 of the Probate Code is amended to read:

9 78. “Surviving spouse” does not include any of the following:

10 (a) A person whose marriage to the decedent has been dissolved  
11 or annulled, unless, by virtue of a subsequent marriage, the person  
12 is married to the decedent at the time of death.

13 (b) A person who obtains or consents to a final decree or  
14 judgment of dissolution of marriage from the decedent or a final  
15 decree or judgment of annulment of their marriage, which decree  
16 or judgment is not recognized as valid in this state, unless they (1)  
17 subsequently participate in a marriage ceremony purporting to  
18 marry each to the other or (2) subsequently live together as ~~husband~~  
19 ~~and wife~~. *spouses*.

20 (c) A person who, following a decree or judgment of dissolution  
21 or annulment of marriage obtained by the decedent, participates  
22 in a marriage ceremony with a third person.

23 (d) A person who was a party to a valid proceeding concluded  
24 by an order purporting to terminate all marital property rights.

25 SEC. 60. Section 100 of the Probate Code is amended to read:

26 100. (a) Upon the death of a married person, one-half of the  
27 community property belongs to the surviving spouse and the other  
28 half belongs to the decedent.

29 (b) Notwithstanding subdivision (a), ~~a husband and wife~~ *spouses*  
30 may agree in writing to divide their community property on the  
31 basis of a non pro rata division of the aggregate value of the  
32 community property or on the basis of a division of each individual  
33 item or asset of community property, or partly on each basis.  
34 Nothing in this subdivision shall be construed to require this written  
35 agreement in order to permit or recognize a non pro rata division  
36 of community property.

37 SEC. 61. Section 101 of the Probate Code is amended to read:

38 101. (a) Upon the death of a married person domiciled in this  
39 state, one-half of the decedent’s quasi-community property belongs  
40 to the surviving spouse and the other half belongs to the decedent.

1 (b) Notwithstanding subdivision (a), ~~a husband and wife~~ *spouses*  
 2 may agree in writing to divide their quasi-community property on  
 3 the basis of a non pro rata division of the aggregate value of the  
 4 quasi-community property, or on the basis of a division of each  
 5 individual item or asset of quasi-community property, or partly on  
 6 each basis. Nothing in this subdivision shall be construed to require  
 7 this written agreement in order to permit or recognize a non pro  
 8 rata division of quasi-community property.

9 SEC. 62. Section 103 of the Probate Code is amended to read:

10 103. Except as provided by Section 224, if ~~a husband and wife~~  
 11 *spouses* die leaving community or quasi-community property and  
 12 it cannot be established by clear and convincing evidence that one  
 13 spouse survived the other:

14 (a) One-half of the community property and one-half of the  
 15 quasi-community property shall be administered or distributed, or  
 16 otherwise dealt with, as if one spouse had survived and as if that  
 17 half belonged to that spouse.

18 (b) The other half of the community property and the other half  
 19 of the quasi-community property shall be administered or  
 20 distributed, or otherwise dealt with, as if the other spouse had  
 21 survived and as if that half belonged to that spouse.

22 SEC. 63. Section 2407 of the Probate Code is amended to read:

23 2407. This chapter applies to property owned by ~~husband and~~  
 24 ~~wife~~ *spouses* as community property only to the extent authorized  
 25 by Part 6 (commencing with Section 3000).

26 SEC. 64. Section 5203 of the Probate Code is amended to read:

27 5203. (a) Words in substantially the following form in a  
 28 signature card, passbook, contract, or instrument evidencing an  
 29 account, or words to the same effect, executed before, on, or after  
 30 July 1, 1990, create the following accounts:

31 (1) Joint account: “This account or certificate is owned by the  
 32 named parties. Upon the death of any of them, ownership passes  
 33 to the survivor(s).”

34 (2) P.O.D. account with single party: “This account or certificate  
 35 is owned by the named party. Upon the death of that party,  
 36 ownership passes to the named pay-on-death payee(s).”

37 (3) P.O.D. account with multiple parties: “This account or  
 38 certificate is owned by the named parties. Upon the death of any  
 39 of them, ownership passes to the survivor(s). Upon the death of  
 40 all of them, ownership passes to the named pay-on-death payee(s).”

1 (4) Joint account of ~~husband and wife~~ *spouses* with right of  
2 survivorship: “This account or certificate is owned by the named  
3 parties, who are ~~husband and wife~~, *spouses*, and is presumed to  
4 be their community property. Upon the death of either of them,  
5 ownership passes to the survivor.”

6 (5) Community property account of ~~husband and wife~~: *spouses*:  
7 “This account or certificate is the community property of the named  
8 parties who are ~~husband and wife~~: *spouses*. The ownership during  
9 lifetime and after the death of a spouse is determined by the law  
10 applicable to community property generally and may be affected  
11 by a will.”

12 (6) Tenancy in common account: “This account or certificate  
13 is owned by the named parties as tenants in common. Upon the  
14 death of any party, the ownership interest of that party passes to  
15 the named pay-on-death payee(s) of that party or, if none, to the  
16 estate of that party.”

17 (b) Use of the form language provided in this section is not  
18 necessary to create an account that is governed by this part. If the  
19 contract of deposit creates substantially the same ~~relationship~~  
20 *relationship* between the parties as an account created using the  
21 form language provided in this section, this part applies to the  
22 same extent as if the form language had been used.

23 SEC. 65. Section 5600 of the Probate Code is amended to read:

24 5600. (a) Except as provided in subdivision (b), a nonprobate  
25 transfer to the transferor’s former spouse, in an instrument executed  
26 by the transferor before or during the marriage, fails if, at the time  
27 of the transferor’s death, the former spouse is not the transferor’s  
28 surviving spouse as defined in Section 78, as a result of the  
29 dissolution or annulment of the marriage. A judgment of legal  
30 separation that does not terminate the status of ~~husband and wife~~  
31 *spouses* is not a dissolution for purposes of this section.

32 (b) Subdivision (a) does not cause a nonprobate transfer to fail  
33 in any of the following cases:

34 (1) The nonprobate transfer is not subject to revocation by the  
35 transferor at the time of the transferor’s death.

36 (2) There is clear and convincing evidence that the transferor  
37 intended to preserve the nonprobate transfer to the former spouse.

38 (3) A court order that the nonprobate transfer be maintained on  
39 behalf of the former spouse is in effect at the time of the  
40 transferor’s death.

1 (c) Where a nonprobate transfer fails by operation of this section,  
2 the instrument making the nonprobate transfer shall be treated as  
3 it would if the former spouse failed to survive the transferor.

4 (d) Nothing in this section affects the rights of a subsequent  
5 purchaser or encumbrancer for value in good faith who relies on  
6 the apparent failure of a nonprobate transfer under this section or  
7 who lacks knowledge of the failure of a nonprobate transfer under  
8 this section.

9 (e) As used in this section, “nonprobate transfer” means a  
10 provision, other than a provision of a life insurance policy, of either  
11 of the following types:

12 (1) A provision of a type described in Section 5000.

13 (2) A provision in an instrument that operates on death, other  
14 than a will, conferring a power of appointment or naming a trustee.

15 SEC. 66. Section 5601 of the Probate Code is amended to read:

16 5601. (a) Except as provided in subdivision (b), a joint tenancy  
17 between the decedent and the decedent’s former spouse, created  
18 before or during the marriage, is severed as to the decedent’s  
19 interest if, at the time of the decedent’s death, the former spouse  
20 is not the decedent’s surviving spouse as defined in Section 78, as  
21 a result of the dissolution or annulment of the marriage. A judgment  
22 of legal separation that does not terminate the status of ~~husband~~  
23 ~~and wife spouses~~ is not a dissolution for purposes of this section.

24 (b) Subdivision (a) does not sever a joint tenancy in either of  
25 the following cases:

26 (1) The joint tenancy is not subject to severance by the decedent  
27 at the time of the decedent’s death.

28 (2) There is clear and convincing evidence that the decedent  
29 intended to preserve the joint tenancy in favor of the former spouse.

30 (c) Nothing in this section affects the rights of a subsequent  
31 purchaser or encumbrancer for value in good faith who relies on  
32 an apparent severance under this section or who lacks knowledge  
33 of a severance under this section.

34 (d) For purposes of this section, property held in “joint tenancy”  
35 includes property held as community property with right of  
36 survivorship, as described in Section 682.1 of the Civil Code.

37 SEC. 67. Section 6122 of the Probate Code is amended to read:

38 6122. (a) Unless the will expressly provides otherwise, if after  
39 executing a will the testator’s marriage is dissolved or annulled,  
40 the dissolution or annulment revokes all of the following:

1 (1) Any disposition or appointment of property made by the  
2 will to the former spouse.

3 (2) Any provision of the will conferring a general or special  
4 power of appointment on the former spouse.

5 (3) Any provision of the will nominating the former spouse as  
6 executor, trustee, conservator, or guardian.

7 (b) If any disposition or other provision of a will is revoked  
8 solely by this section, it is revived by the testator's remarriage to  
9 the former spouse.

10 (c) In case of revocation by dissolution or annulment:

11 (1) Property prevented from passing to a former spouse because  
12 of the revocation passes as if the former spouse failed to survive  
13 the testator.

14 (2) Other provisions of the will conferring some power or office  
15 on the former spouse shall be interpreted as if the former spouse  
16 failed to survive the testator.

17 (d) For purposes of this section, dissolution or annulment means  
18 any dissolution or annulment which would exclude the spouse as  
19 a surviving spouse within the meaning of Section 78. A decree of  
20 legal separation which does not terminate the status of ~~husband~~  
21 ~~and wife~~ *spouses* is not a dissolution for purposes of this section.

22 (e) Except as provided in Section 6122.1, no change of  
23 circumstances other than as described in this section revokes a  
24 will.

25 (f) Subdivisions (a) to (d), inclusive, do not apply to any case  
26 where the final judgment of dissolution or annulment of marriage  
27 occurs before January 1, 1985. That case is governed by the law  
28 in effect prior to January 1, 1985.

29 SEC. 68. Section 6227 of the Probate Code is amended to read:

30 6227. (a) If after executing a California statutory will the  
31 testator's marriage is dissolved or annulled, the dissolution or  
32 annulment revokes any disposition of property made by the will  
33 to the former spouse and any nomination of the former spouse as  
34 executor, trustee, guardian, or custodian made by the will. If any  
35 disposition or nomination is revoked solely by this section, it is  
36 revived by the testator's remarriage to the former spouse.

37 (b) In case of revocation by dissolution or annulment:

38 (1) Property prevented from passing to a former spouse because  
39 of the revocation passes as if the former spouse failed to survive  
40 the testator.

1 (2) Provisions nominating the former spouse as executor, trustee,  
2 guardian, or custodian shall be interpreted as if the former spouse  
3 failed to survive the testator.

4 (c) For purposes of this section, dissolution or annulment means  
5 any dissolution or annulment that would exclude the spouse as a  
6 surviving spouse within the meaning of Section 78. A decree of  
7 legal separation which does not terminate the status of ~~husband~~  
8 ~~and wife spouses~~ is not a dissolution or annulment for purposes  
9 of this section.

10 (d) This section applies to any California statutory will, without  
11 regard to the time when the will was executed, but this section  
12 does not apply to any case where the final judgment of dissolution  
13 or annulment of marriage occurs before January 1, 1985; and, if  
14 the final judgment of dissolution or annulment of marriage occurs  
15 before January 1, 1985, the case is governed by the law that applied  
16 prior to January 1, 1985.

17 SEC. 69. Section 6240 of the Probate Code is amended to read:  
18 6240. The following is the California Statutory Will form:

19

20 QUESTIONS AND ANSWERS ABOUT THIS CALIFORNIA  
21 STATUTORY WILL

22

23 The following information, in question and answer form, is not  
24 a part of the California Statutory Will. It is designed to help you  
25 understand about Wills and to decide if this Will meets your needs.  
26 This Will is in a simple form. The complete text of each paragraph  
27 of this Will is printed at the end of the Will.

28

29 1. *What happens if I die without a Will?* If you die without a  
30 Will, what you own (your “assets”) in your name alone will be  
31 divided among your spouse, domestic partner, children, or other  
32 relatives according to state law. The court will appoint a relative  
33 to collect and distribute your assets.

34 2. *What can a Will do for me?* In a Will you may designate  
35 who will receive your assets at your death. You may designate  
36 someone (called an “executor”) to appear before the court, collect  
37 your assets, pay your debts and taxes, and distribute your assets  
38 as you specify. You may nominate someone (called a “guardian”)  
39 to raise your children who are under age 18. You may designate

1 someone (called a “custodian”) to manage assets for your children  
2 until they reach any age from 18 to 25.

3 3. *Does a Will avoid probate?* No. With or without a Will,  
4 assets in your name alone usually go through the court probate  
5 process. The court’s first job is to determine if your Will is valid.

6 4. *What is community property?* Can I give away my share in  
7 my Will? If you are married and you or your spouse earned money  
8 during your marriage from work and wages, that money (and the  
9 assets bought with it) is community property. Your Will can only  
10 give away your one-half of community property. Your Will cannot  
11 give away your spouse’s one-half of community property.

12 5. *Does my Will give away all of my assets?* Do all assets go  
13 through probate? No. Money in a joint tenancy bank account  
14 automatically belongs to the other named owner without probate.  
15 If your spouse, domestic partner, or child is on the deed to your  
16 house as a joint tenant, the house automatically passes to him or  
17 her. Life insurance and retirement plan benefits may pass directly  
18 to the named beneficiary. A Will does not necessarily control how  
19 these types of “nonprobate” assets pass at your death.

20 6. *Are there different kinds of Wills?* Yes. There are  
21 handwritten Wills, typewritten Wills, attorney-prepared Wills, and  
22 statutory Wills. All are valid if done precisely as the law requires.  
23 You should see a lawyer if you do not want to use this Statutory  
24 Will or if you do not understand this form.

25 7. *Who may use this Will?* This Will is based on California  
26 law. It is designed only for California residents. You may use this  
27 form if you are single, married, a member of a domestic  
28 partnership, or divorced. You must be age 18 or older and of sound  
29 mind.

30 8. *Are there any reasons why I should NOT use this Statutory*  
31 *Will?* Yes. This is a simple Will. It is not designed to reduce death  
32 taxes or other taxes. Talk to a lawyer to do tax planning, especially  
33 if (i) your assets will be worth more than \$600,000 or the current  
34 amount excluded from estate tax under federal law at your death,  
35 (ii) you own business-related assets, (iii) you want to create a trust  
36 fund for your children’s education or other purposes, (iv) you own  
37 assets in some other state, (v) you want to disinherit your spouse,  
38 domestic partner, or descendants, or (vi) you have valuable interests  
39 in pension or profit-sharing plans. You should talk to a lawyer  
40 who knows about estate planning if this Will does not meet your

1 needs. This Will treats most adopted children like natural children.  
2 You should talk to a lawyer if you have stepchildren or foster  
3 children whom you have not adopted.

4 9. *May I add or cross out any words on this Will?* No. If you  
5 do, the Will may be invalid or the court may ignore the crossed  
6 out or added words. You may only fill in the blanks. You may  
7 amend this Will by a separate document (called a codicil). Talk to  
8 a lawyer if you want to do something with your assets which is  
9 not allowed in this form.

10 10. *May I change my Will?* Yes. A Will is not effective until  
11 you die. You may make and sign a new Will. You may change  
12 your Will at any time, but only by an amendment (called a codicil).  
13 You can give away or sell your assets before your death. Your  
14 Will only acts on what you own at death.

15 11. *Where should I keep my Will?* After you and the witnesses  
16 sign the Will, keep your Will in your safe deposit box or other safe  
17 place. You should tell trusted family members where your Will is  
18 kept.

19 12. *When should I change my Will?* You should make and sign  
20 a new Will if you marry, divorce, or terminate your domestic  
21 partnership after you sign this Will. Divorce, annulment, or  
22 termination of a domestic partnership automatically cancels all  
23 property stated to pass to a former ~~husband, wife,~~ *spouse* or  
24 domestic partner under this Will, and revokes the designation of  
25 a former spouse or domestic partner as executor, custodian, or  
26 guardian. You should sign a new Will when you have more  
27 children, or if your spouse or a child dies, or a domestic partner  
28 dies or marries. You may want to change your Will if there is a  
29 large change in the value of your assets. You may also want to  
30 change your Will if you enter a domestic partnership or your  
31 domestic partnership has been terminated after you sign this Will.

32 13. *What can I do if I do not understand something in this Will?*  
33 If there is anything in this Will you do not understand, ask a lawyer  
34 to explain it to you.

35 14. *What is an executor?* An “executor” is the person you name  
36 to collect your assets, pay your debts and taxes, and distribute your  
37 assets as the court directs. It may be a person or it may be a  
38 qualified bank or trust company.

39 15. *Should I require a bond?* You may require that an executor  
40 post a “bond.” A bond is a form of insurance to replace assets that

1 may be mismanaged or stolen by the executor. The cost of the  
2 bond is paid from the estate’s assets.

3 16. *What is a guardian?* Do I need to designate one? If you  
4 have children under age 18, you should designate a guardian of  
5 their “persons” to raise them.

6 17. *What is a custodian?* Do I need to designate one? A  
7 “custodian” is a person you may designate to manage assets for  
8 someone (including a child) who is under the age of 25 and who  
9 receives assets under your Will. The custodian manages the assets  
10 and pays as much as the custodian determines is proper for health,  
11 support, maintenance, and education. The custodian delivers what  
12 is left to the person when the person reaches the age you choose  
13 (from 18 to 25). No bond is required of a custodian.

14 18. *Should I ask people if they are willing to serve before I*  
15 *designate them as executor, guardian, or custodian?* Probably  
16 yes. Some people and banks and trust companies may not consent  
17 to serve or may not be qualified to act.

18 19. *What happens if I make a gift in this Will to someone and*  
19 *that person dies before I do?* A person must survive you by 120  
20 hours to take a gift under this Will. If that person does not, then  
21 the gift fails and goes with the rest of your assets. If the person  
22 who does not survive you is a relative of yours or your spouse,  
23 then certain assets may go to the relative’s descendants.

24 20. *What is a trust?* There are many kinds of trusts, including  
25 trusts created by Wills (called “testamentary trusts”) and trusts  
26 created during your lifetime (called “revocable living trusts”). Both  
27 kinds of trusts are long-term arrangements in which a manager  
28 (called a “trustee”) invests and manages assets for someone (called  
29 a “beneficiary”) on the terms you specify. Trusts are too  
30 complicated to be used in this Statutory Will. You should see a  
31 lawyer if you want to create a trust.

32 21. *What is a domestic partner?* You have a domestic partner  
33 if you have met certain legal requirements and filed a form entitled  
34 “Declaration of Domestic Partnership” with the Secretary of State.  
35 Notwithstanding Section 299.6 of the Family Code, if you have  
36 not filed a Declaration of Domestic Partnership with the Secretary  
37 of State, you do not meet the required definition and should not  
38 use the section of the Statutory Will form that refers to domestic  
39 partners even if you have registered your domestic partnership  
40 with another governmental entity. If you are unsure if you have a

1 domestic partner or if your domestic partnership meets the required  
2 definition, please contact the Secretary of State’s office.

3

4

INSTRUCTIONS

5

6 1. *READ THE WILL.* Read the whole Will first. If you do not  
7 understand something, ask a lawyer to explain it to you.

8 2. *FILL IN THE BLANKS.* Fill in the blanks. Follow the  
9 instructions in the form carefully. Do not add any words to the  
10 Will (except for filling in blanks) or cross out any words.

11 3. *DATE AND SIGN THE WILL AND HAVE TWO WITNESSES*  
12 *SIGN IT.* Date and sign the Will and have two witnesses sign it.  
13 You and the witnesses should read and follow the Notice to  
14 Witnesses found at the end of this Will.

15 \*You do not need to have this document notarized. Notarization  
16 will not fulfill the witness requirement.

CALIFORNIA STATUTORY WILL OF

Print Your Full Name

- 1. Will. This is my Will. I revoke all prior Wills and codicils.
2. Specific Gift of Personal Residence. (Optional—use only if you want to give your personal residence to a different person or persons than you give the balance of your assets to under paragraph 5 below.) I give my interest in my principal personal residence at the time of my death (subject to mortgages and liens) as follows:

(Select one choice only and sign in the box after your choice.)

a. Choice One: All to my spouse or domestic partner, registered with the California Secretary of State, if my spouse or domestic partner, registered with the California Secretary of State, survives me; otherwise to my descendants (my children and the descendants of my children)who survive me.

[Empty box for Choice One]

b. Choice Two: Nothing to my spouse or domestic partner, registered with the California Secretary of State; all to my descendants (my children and the descendants of my children) who survive me.

[Empty box for Choice Two]

c. Choice Three: All to the following person if he or she survives me (Insert the name of the person.):

[Empty box for Choice Three]

d. Choice Four: Equally among the following persons who survive me (Insert the names of two or more persons.):

[Empty box for Choice Four]

[Three horizontal lines for Choice Four]

- 3. Specific Gift of Automobiles, Household and Personal Effects. (Optional—use only if you want to give automobiles and household and personal effects to a different person or persons than you give the balance of your assets to under paragraph 5 below.) I give all of my automobiles (subject to loans), furniture, furnishings, household items, clothing, jewelry, and other tangible articles of a personal nature at the time of my death as follows:

(Select one choice only and sign in the box after your choice.)

a. Choice One: All to my spouse or domestic partner, registered with the California Secretary of State, if my spouse, domestic partner, registered with the California Secretary of State, survives me; otherwise to my descendants (my children and the descendants of my children) who survive me.

b. Choice Two: Nothing to my spouse or domestic partner, registered with the California Secretary of State; all to my descendants (my children and the descendants of my children) who survive me.

c. Choice Three: All to the following person if he or she survives me (Insert the name of the person.):

d. Choice Four: Equally among the following persons who survive me (Insert the names of two or more persons.):

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4. Specific Gifts of Cash. (Optional) I make the following cash gifts to the persons named below who survive me, or to the named charity, and I sign my name in the box after each gift. If I do not sign in the box, I do not make a gift. (Sign in the box after each gift you make.)

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift
Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift
Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

5. Balance of My Assets. Except for the specific gifts made in paragraphs 2, 3 and 4 above, I give the balance of my assets as follows:

(Select one choice only and sign in the box after your choice. If I sign in more than one box or if I do not sign in any box, the court will distribute my assets as if I did not make a Will.)

a. Choice One: All to my spouse or domestic partner, registered with the California Secretary of State, if my spouse or domestic partner, registered with the California Secretary of State, survives me; otherwise to my descendants (my children and the descendants of my children) who survive me.

b. Choice Two: Nothing to my spouse or domestic partner, registered with the California Secretary of State; all to my descendants (my children and the descendants of my children) who survive me.

c. Choice Three: All to the following person if he or she survives me (Insert the name of the person.):

d. Choice Four: Equally among the following persons who survive me (Insert the names of two or more persons.):

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6. Guardian of the Child’s Person. If, at my death, I have a child under age 18, whether the child is alive at the time this will is executed or born after the date this will is executed, and the child does not have a living parent, I nominate the individual named below as First Choice as guardian of the person of that child (to raise the child). If the First Choice does not serve, then I nominate the Second Choice, and then the Third Choice, to serve. Only an individual (not a bank or trust company) may serve.

Name of First Choice for Guardian of the Person

Name of Second Choice for Guardian of the Person

Name of Third Choice for Guardian of the Person

7. Special Provision for Property of Persons Under Age 25. (Optional—unless you use this paragraph, assets that go to a child or other person who is under age 18 may be given to the parent of the person, or to the Guardian named in paragraph 6 above as guardian of the person until age 18, and the court will require a bond, and assets that go to a child or other person who is age 18 or older will be given outright to the person. By using this paragraph you may provide that a custodian will hold the assets for the person until the person reaches any age from 18 to 25 which you choose.) If a beneficiary of this Will is under the age chosen below, I nominate the individual or bank or trust company named below as First Choice as custodian of the property. If the First Choice does not serve, then I nominate the Second Choice, and then the Third Choice, to serve.

Name of First Choice for Custodian of Assets

Name of Second Choice for Custodian of Assets

Name of Third Choice for Custodian of Assets

Insert any age from 18 to 25 as the age for the person to receive the property:  
(If you do not choose an age, age 18 will apply.)

8. Executor. I nominate the individual or bank or trust company named below as First Choice as executor. If the First Choice does not serve, then I nominate the Second Choice, and then the Third Choice, to serve.

Name of First Choice for Executor

Name of Second Choice for Executor

Name of Third Choice for Executor

9. Bond. My signature in this box means a bond is not required for any person named as executor. A bond may be required if I do not sign in this box:

No bond shall be required.

(Notice: You must sign this Will in the presence of two (2) adult witnesses. The witnesses must sign their names in your presence. You must first read to them the following sentence.)

This is my Will: I ask the persons who sign below to be my witnesses.

Signed on \_\_\_\_\_ at \_\_\_\_\_, California.  
(date) (city)

Signature of Maker of Will

(Notice to Witnesses: Two (2) adults must sign as witnesses. Each witness must read the following clause before signing. The witnesses should not receive assets under this Will.)

Each of us declares under penalty of perjury under the laws of the State of California that the following is true and correct:

- a. On the date written below the maker of this Will declared to us that this instrument was the maker's Will and requested us to act as witnesses to it;
- b. We understand this is the maker's Will;
- c. The maker signed this Will in our presence, all of us being present at the same time;

d. We now, at the maker’s request, and in the maker’s presence, sign below as witnesses;

e. We believe the maker is of sound mind and memory;

f. We believe that this Will was not procured by duress, menace, fraud or undue influence;

g. The maker is age 18 or older; and

h. Each of us is now age 18 or older, is a competent witness, and resides at the address set forth after his or her name.

Dated: \_\_\_\_\_ , \_\_\_\_\_

Signature of witness

Signature of witness

Print name here:

Print name here:

\_\_\_\_\_

\_\_\_\_\_

Residence address:

Residence address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

AT LEAST TWO WITNESSES MUST SIGN

1 SEC. 70. Section 13500 of the Probate Code is amended to  
2 read:

3 13500. Except as provided in this chapter, when a ~~husband or~~  
4 ~~wife~~ *spouse* dies intestate leaving property that passes to the  
5 surviving spouse under Section 6401, or dies testate and by his or  
6 her will devises all or a part of his or her property to the surviving  
7 spouse, the property passes to the survivor subject to the provisions  
8 of Chapter 2 (commencing with Section 13540) and Chapter 3  
9 (commencing with Section 13550), and no administration is  
10 necessary.

11 SEC. 71. Section 13600 of the Probate Code is amended to  
12 read:

13 13600. (a) At any time after a ~~husband or wife~~ *spouse* dies,  
14 the surviving spouse or the guardian or conservator of the estate  
15 of the surviving spouse may, without procuring letters of  
16 administration or awaiting probate of the will, collect salary or  
17 other compensation owed by an employer for personal services of  
18 the deceased spouse, including compensation for unused vacation,  
19 not in excess of fifteen thousand dollars (\$15,000) net.

20 (b) Not more than fifteen thousand dollars (\$15,000) net in the  
21 aggregate may be collected by or for the surviving spouse under  
22 this chapter from all of the employers of the decedent.

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

27 (d) The fifteen-thousand-dollar (\$15,000) net limitation set forth  
28 in subdivisions (a) and (b) does not apply to the surviving spouse  
29 or the guardian or conservator of the estate of the surviving spouse  
30 of a firefighter or peace officer described in subdivision (a) of  
31 Section 22820 of the Government Code.

32 (e) On January 1, 2003, and on January 1 of each year thereafter,  
33 the maximum net amount of salary or compensation payable under  
34 subdivisions (a) and (b) to the surviving spouse or the guardian or  
35 conservator of the estate of the surviving spouse may be adjusted  
36 to reflect any increase in the cost of living occurring after January  
37 1 of the immediately preceding year. The United States city average  
38 of the “Consumer Price Index for All Urban Consumers,” as  
39 published by the United States Bureau of Labor Statistics, shall  
40 be used as the basis for determining the changes in the cost of

1 living. The cost-of-living increase shall equal or exceed 1 percent  
2 before any adjustment is made. The net amount payable may not  
3 be decreased as a result of the cost-of-living adjustment.

4 SEC. 72. Section 17021 of the Revenue and Taxation Code is  
5 amended to read:

6 17021. As used in this part, if the ~~husband and wife~~ *spouses*  
7 therein referred to are divorced, wherever appropriate to the  
8 meaning of this part, the term ~~“wife”~~ *“spouse”* shall be read  
9 ~~“former wife”~~ and the term ~~“husband”~~ shall be read ~~“former~~  
10 ~~husband.”~~ If the payments described in this part are made by or  
11 on behalf of the wife or former wife to the husband or former  
12 husband instead of vice versa, wherever appropriate to the meaning  
13 of this part, the term ~~“husband”~~ shall be read ~~“wife”~~ and the term  
14 ~~“wife”~~ shall be read ~~“husband.”~~ *spouse.*

15 SEC. 73. Section 17039 of the Revenue and Taxation Code is  
16 amended to read:

17 17039. (a) Notwithstanding any provision in this part to the  
18 contrary, for the purposes of computing tax credits, the term “net  
19 tax” means the tax imposed under either Section 17041 or 17048  
20 plus the tax imposed under Section 17504 (relating to lump-sum  
21 distributions) less the credits allowed by Section 17054 (relating  
22 to personal exemption credits) and any amount imposed under  
23 paragraph (1) of subdivision (d) and paragraph (1) of subdivision  
24 (e) of Section 17560. Notwithstanding the preceding sentence, the  
25 “net tax” shall not be less than the tax imposed under Section  
26 17504 (relating to the separate tax on lump-sum distributions), if  
27 any. Credits shall be allowed against “net tax” in the following  
28 order:

29 (1) Credits that do not contain carryover or refundable  
30 provisions, except those described in paragraphs (4) and (5).

31 (2) Credits that contain carryover provisions but do not contain  
32 refundable provisions, except for those that are allowed to reduce  
33 “net tax” below the tentative minimum tax, as defined by Section  
34 17062.

35 (3) Credits that contain both carryover and refundable  
36 provisions.

37 (4) The minimum tax credit allowed by Section 17063 (relating  
38 to the alternative minimum tax).

39 (5) Credits that are allowed to reduce “net tax” below the  
40 tentative minimum tax, as defined by Section 17062.

1 (6) Credits for taxes paid to other states allowed by Chapter 12  
2 (commencing with Section 18001).

3 (7) Credits that contain refundable provisions but do not contain  
4 carryover provisions.

5 The order within each paragraph shall be determined by the  
6 Franchise Tax Board.

7 (b) Notwithstanding the provisions of Sections 17061 (relating  
8 to refunds pursuant to the Unemployment Insurance Code) and  
9 19002 (relating to tax withholding), the credits provided in those  
10 sections shall be allowed in the order provided in paragraph (6) of  
11 subdivision (a).

12 (c) (1) Notwithstanding any other provision of this part, no tax  
13 credit shall reduce the tax imposed under Section 17041 or 17048  
14 plus the tax imposed under Section 17504 (relating to the separate  
15 tax on lump-sum distributions) below the tentative minimum tax,  
16 as defined by Section 17062, except the following credits:

17 (A) The credit allowed by Section 17052.2 (relating to teacher  
18 retention tax credit).

19 (B) The credit allowed by former Section 17052.4 (relating to  
20 solar energy).

21 (C) The credit allowed by former Section 17052.5 (relating to  
22 solar energy, repealed on January 1, 1987).

23 (D) The credit allowed by former Section 17052.5 (relating to  
24 solar energy, repealed on December 1, 1994).

25 (E) The credit allowed by Section 17052.12 (relating to research  
26 expenses).

27 (F) The credit allowed by former Section 17052.13 (relating to  
28 sales and use tax credit).

29 (G) The credit allowed by former Section 17052.15 (relating to  
30 Los Angeles Revitalization Zone sales tax credit).

31 (H) The credit allowed by Section 17052.25 (relating to the  
32 adoption costs credit).

33 (I) The credit allowed by Section 17053.5 (relating to the  
34 renter's credit).

35 (J) The credit allowed by former Section 17053.8 (relating to  
36 enterprise zone hiring credit).

37 (K) The credit allowed by former Section 17053.10 (relating to  
38 Los Angeles Revitalization Zone hiring credit).

39 (L) The credit allowed by former Section 17053.11 (relating to  
40 program area hiring credit).

- 1 (M) For each taxable year beginning on or after January 1, 1994,  
2 the credit allowed by former Section 17053.17 (relating to Los  
3 Angeles Revitalization Zone hiring credit).
- 4 (N) The credit allowed by Section 17053.33 (relating to targeted  
5 tax area sales or use tax credit).
- 6 (O) The credit allowed by Section 17053.34 (relating to targeted  
7 tax area hiring credit).
- 8 (P) The credit allowed by Section 17053.49 (relating to qualified  
9 property).
- 10 (Q) The credit allowed by Section 17053.70 (relating to  
11 enterprise zone sales or use tax credit).
- 12 (R) The credit allowed by Section 17053.74 (relating to  
13 enterprise zone hiring credit).
- 14 (S) The credit allowed by Section 17054 (relating to credits for  
15 personal exemption).
- 16 (T) The credit allowed by Section 17054.5 (relating to the credits  
17 for a qualified joint custody head of household and a qualified  
18 taxpayer with a dependent parent).
- 19 (U) The credit allowed by Section 17054.7 (relating to the credit  
20 for a senior head of household).
- 21 (V) The credit allowed by former Section 17057 (relating to  
22 clinical testing expenses).
- 23 (W) The credit allowed by Section 17058 (relating to  
24 low-income housing).
- 25 (X) For taxable years beginning on or after January 1, 2014, the  
26 credit allowed by Section 17059.2 (relating to GO-Biz California  
27 Competes Credit).
- 28 (Y) The credit allowed by Section 17061 (relating to refunds  
29 pursuant to the Unemployment Insurance Code).
- 30 (Z) Credits for taxes paid to other states allowed by Chapter 12  
31 (commencing with Section 18001).
- 32 (AA) The credit allowed by Section 19002 (relating to tax  
33 withholding).
- 34 (2) Any credit that is partially or totally denied under paragraph  
35 (1) shall be allowed to be carried over and applied to the net tax  
36 in succeeding taxable years, if the provisions relating to that credit  
37 include a provision to allow a carryover when that credit exceeds  
38 the net tax.
- 39 (d) Unless otherwise provided, any remaining carryover of a  
40 credit allowed by a section that has been repealed or made

1 inoperative shall continue to be allowed to be carried over under  
2 the provisions of that section as it read immediately prior to being  
3 repealed or becoming inoperative.

4 (e) (1) Unless otherwise provided, if two or more taxpayers  
5 (other than ~~husband and wife~~ *spouses*) share in costs that would  
6 be eligible for a tax credit allowed under this part, each taxpayer  
7 shall be eligible to receive the tax credit in proportion to his or her  
8 respective share of the costs paid or incurred.

9 (2) In the case of a partnership, the credit shall be allocated  
10 among the partners pursuant to a written partnership agreement in  
11 accordance with Section 704 of the Internal Revenue Code, relating  
12 to partner's distributive share.

13 (3) In the case of a ~~husband and wife~~ *spouses* who file separate  
14 returns, the credit may be taken by either or equally divided  
15 between them.

16 (f) Unless otherwise provided, in the case of a partnership, any  
17 credit allowed by this part shall be computed at the partnership  
18 level, and any limitation on the expenses qualifying for the credit  
19 or limitation upon the amount of the credit shall be applied to the  
20 partnership and to each partner.

21 (g) (1) With respect to any taxpayer that directly or indirectly  
22 owns an interest in a business entity that is disregarded for tax  
23 purposes pursuant to Section 23038 and any regulations thereunder,  
24 the amount of any credit or credit carryforward allowable for any  
25 taxable year attributable to the disregarded business entity shall  
26 be limited in accordance with paragraphs (2) and (3).

27 (2) The amount of any credit otherwise allowed under this part,  
28 including any credit carryover from prior years, that may be applied  
29 to reduce the taxpayer's "net tax," as defined in subdivision (a),  
30 for the taxable year shall be limited to an amount equal to the  
31 excess of the taxpayer's regular tax (as defined in Section 17062),  
32 determined by including income attributable to the disregarded  
33 business entity that generated the credit or credit carryover, over  
34 the taxpayer's regular tax (as defined in Section 17062), determined  
35 by excluding the income attributable to that disregarded business  
36 entity. No credit shall be allowed if the taxpayer's regular tax (as  
37 defined in Section 17062), determined by including the income  
38 attributable to the disregarded business entity, is less than the  
39 taxpayer's regular tax (as defined in Section 17062), determined

1 by excluding the income attributable to the disregarded business  
2 entity.

3 (3) If the amount of a credit allowed pursuant to the section  
4 establishing the credit exceeds the amount allowable under this  
5 subdivision in any taxable year, the excess amount may be carried  
6 over to subsequent taxable years pursuant to subdivisions (c) and  
7 (d).

8 (h) (1) Unless otherwise specifically provided, in the case of a  
9 taxpayer that is a partner or shareholder of an eligible pass-thru  
10 entity described in paragraph (2), any credit passed through to the  
11 taxpayer in the taxpayer's first taxable year beginning on or after  
12 the date the credit is no longer operative may be claimed by the  
13 taxpayer in that taxable year, notwithstanding the repeal of the  
14 statute authorizing the credit prior to the close of that taxable year.

15 (2) For purposes of this subdivision, "eligible pass-thru entity"  
16 means any partnership or "S" corporation that files its return on a  
17 fiscal year basis pursuant to Section 18566, and that is entitled to  
18 a credit pursuant to this part for the taxable year that begins during  
19 the last year the credit is operative.

20 (3) This subdivision shall apply to credits that become  
21 inoperative on or after the operative date of the act adding this  
22 subdivision.

23 SEC. 74. Section 17045 of the Revenue and Taxation Code is  
24 amended to read:

25 17045. In the case of a joint return of a ~~husband and wife~~  
26 *married couple* under Section 18521, the tax imposed by Section  
27 17041 shall be twice the tax which would be imposed if the taxable  
28 income were cut in half.

29 For purposes of this section, a return of a surviving spouse (as  
30 defined in Section 17046) shall be treated as a joint return of a  
31 ~~husband and wife~~. *married couple*.

32 SEC. 75. Section 17053.5 of the Revenue and Taxation Code  
33 is amended to read:

34 17053.5. (a) (1) For a qualified renter, there shall be allowed  
35 a credit against his or her "net tax," as defined in Section 17039.  
36 The amount of the credit shall be as follows:

37 (A) For married couples filing joint returns, heads of household,  
38 and surviving spouses, as defined in Section 17046, the credit shall  
39 be equal to one hundred twenty dollars (\$120) if adjusted gross  
40 income is fifty thousand dollars (\$50,000) or less.

1 (B) For other individuals, the credit shall be equal to sixty dollars  
2 (\$60) if adjusted gross income is twenty-five thousand dollars  
3 (\$25,000) or less.

4 (2) Except as provided in subdivision (b), a ~~husband and wife~~  
5 *married couple* shall receive but one credit under this section. If  
6 the ~~husband and wife~~ *spouses* file separate returns, the credit may  
7 be taken by either or equally divided between them, except as  
8 follows:

9 (A) If one spouse was a resident for the entire taxable year and  
10 the other spouse was a nonresident for part or all of the taxable  
11 year, the resident spouse shall be allowed one-half the credit  
12 allowed to married persons and the nonresident spouse shall be  
13 permitted one-half the credit allowed to married persons, prorated  
14 as provided in subdivision (e).

15 (B) If both spouses were nonresidents for part of the taxable  
16 year, the credit allowed to married persons shall be divided equally  
17 between them subject to the proration provided in subdivision (e).

18 (b) For a ~~husband and wife~~, *married couple*, if each spouse  
19 maintained a separate place of residence and resided in this state  
20 during the entire taxable year, each spouse will be allowed one-half  
21 the full credit allowed to married persons provided in subdivision  
22 (a).

23 (c) For purposes of this section, a “qualified renter” means an  
24 individual who satisfies both of the following:

25 (1) Was a resident of this state, as defined in Section 17014.

26 (2) Rented and occupied premises in this state which constituted  
27 his or her principal place of residence during at least 50 percent  
28 of the taxable year.

29 (d) “Qualified renter” does not include any of the following:

30 (1) An individual who for more than 50 percent of the taxable  
31 year rented and occupied premises that were exempt from property  
32 taxes, except that an individual, otherwise qualified, is deemed a  
33 qualified renter if he or she or his or her landlord pays possessory  
34 interest taxes, or the owner of those premises makes payments in  
35 lieu of property taxes that are substantially equivalent to property  
36 taxes paid on properties of comparable market value.

37 (2) An individual whose principal place of residence for more  
38 than 50 percent of the taxable year is with another person who  
39 claimed that individual as a dependent for income tax purposes.

1 (3) An individual who has been granted or whose spouse has  
2 been granted the homeowners' property tax exemption during the  
3 taxable year. This paragraph does not apply to an individual whose  
4 spouse has been granted the homeowners' property tax exemption  
5 if each spouse maintained a separate residence for the entire taxable  
6 year.

7 (e) An otherwise qualified renter who is a nonresident for any  
8 portion of the taxable year shall claim the credits set forth in  
9 subdivision (a) at the rate of one-twelfth of those credits for each  
10 full month that individual resided within this state during the  
11 taxable year.

12 (f) A person claiming the credit provided in this section shall,  
13 as part of that claim, and under penalty of perjury, furnish that  
14 information as the Franchise Tax Board prescribes on a form  
15 supplied by the board.

16 (g) The credit provided in this section shall be claimed on returns  
17 in the form as the Franchise Tax Board may from time to time  
18 prescribe.

19 (h) For purposes of this section, "premises" means a house or  
20 a dwelling unit used to provide living accommodations in a  
21 building or structure and the land incidental thereto, but does not  
22 include land only, unless the dwelling unit is a mobilehome. The  
23 credit is not allowed for any taxable year for the rental of land  
24 upon which a mobilehome is located if the mobilehome has been  
25 granted a homeowners' exemption under Section 218 in that year.

26 (i) This section shall become operative on January 1, 1998, and  
27 applies to any taxable year beginning on or after January 1, 1998.

28 (j) For each taxable year beginning on or after January 1, 1999,  
29 the Franchise Tax Board shall recompute the adjusted gross income  
30 amounts set forth in subdivision (a). The computation shall be  
31 made as follows:

32 (1) The Department of Industrial Relations shall transmit  
33 annually to the Franchise Tax Board the percentage change in the  
34 California Consumer Price Index for all items from June of the  
35 prior calendar year to June of the current year, no later than August  
36 1 of the current calendar year.

37 (2) The Franchise Tax Board shall compute an inflation  
38 adjustment factor by adding 100 percent to the portion of the  
39 percentage change figure which is furnished pursuant to paragraph  
40 (1) and dividing the result by 100.

1 (3) The Franchise Tax Board shall multiply the amount in  
2 subparagraph (B) of paragraph (1) of subdivision (d) for the  
3 preceding taxable year by the inflation adjustment factor  
4 determined in paragraph (2), and round off the resulting products  
5 to the nearest one dollar (\$1).

6 (4) In computing the amounts pursuant to this subdivision, the  
7 amounts provided in subparagraph (A) of paragraph (1) of  
8 subdivision (a) shall be twice the amount provided in subparagraph  
9 (B) of paragraph (1) of subdivision (a).

10 SEC. 76. Section 17054 of the Revenue and Taxation Code is  
11 amended to read:

12 17054. In the case of individuals, the following credits for  
13 personal exemption may be deducted from the tax imposed under  
14 Section 17041 or 17048, less any increases imposed under  
15 paragraph (1) of subdivision (d) or paragraph (1) of subdivision  
16 (e), or both, of Section 17560.

17 (a) In the case of a single individual, a head of household, or a  
18 married individual making a separate return, a credit of fifty-two  
19 dollars (\$52).

20 (b) In the case of a surviving spouse (as defined in Section  
21 17046), or a ~~husband and wife~~ *married couple* making a joint  
22 return, a credit of one hundred four dollars (\$104). If one spouse  
23 was a resident for the entire taxable year and the other spouse was  
24 a nonresident for all or any portion of the taxable year, the personal  
25 exemption shall be divided equally.

26 (c) In addition to any other credit provided in this section, in  
27 the case of an individual who is 65 years of age or over by the end  
28 of the taxable year, a credit of fifty-two dollars (\$52).

29 (d) (1) A credit of two hundred twenty-seven dollars (\$227)  
30 for each dependent (as defined in Section 17056) for whom an  
31 exemption is allowable under Section 151(c) of the Internal  
32 Revenue Code, relating to additional exemption for dependents.  
33 The credit allowed under this subdivision for taxable years  
34 beginning on or after January 1, 1999, shall not be adjusted  
35 pursuant to subdivision (i) for any taxable year beginning before  
36 January 1, 2000.

37 (2) (A) For taxable years beginning on or after January 1, 2015,  
38 a credit shall not be allowed under paragraph (1) with respect to  
39 any individual unless the identification number, as defined in

1 Section 6109 of the Internal Revenue Code, of that individual is  
2 included on the return claiming the credit.

3 (B) A disallowance of a credit due to the omission of a correct  
4 identification number required under this paragraph, may be  
5 assessed by the Franchise Tax Board in the same manner as is  
6 provided by Section 19051 in the case of a mathematical error  
7 appearing on the return. A claimant shall have the right to claim  
8 a credit or refund of adjusted amounts within the period provided  
9 in Section 19306, 19307, 19308, or 19311, whichever period  
10 expires later.

11 (3) (A) For taxable years beginning on or after January 1, 2009,  
12 the credit allowed under paragraph (1) for each dependent shall  
13 be equal to the credit allowed under subdivision (a). This  
14 subparagraph shall cease to be operative for taxable years beginning  
15 on or after January 1, 2011, unless the Director of Finance makes  
16 the notification pursuant to Section 99040 of the Government  
17 Code, in which case this subparagraph shall cease to be operative  
18 for taxable years beginning on or after January 1, 2013.

19 (B) For taxable years that subparagraph (A) ceases to be  
20 operative, the credit allowed under paragraph (1) for each  
21 dependent shall be equal to the amount that would be allowed if  
22 subparagraph (A) had never been operative.

23 (e) A credit for personal exemption of fifty-two dollars (\$52)  
24 for the taxpayer if he or she is blind at the end of his or her taxable  
25 year.

26 (f) A credit for personal exemption of fifty-two dollars (\$52)  
27 for the spouse of the taxpayer if a separate return is made by the  
28 taxpayer, and if the spouse is blind and, for the calendar year in  
29 which the taxable year of the taxpayer begins, has no gross income  
30 and is not the dependent of another taxpayer.

31 (g) For the purposes of this section, an individual is blind only  
32 if either (1) his or her central visual acuity does not exceed 20/200  
33 in the better eye with correcting lenses, or (2) his or her visual  
34 acuity is greater than 20/200 but is accompanied by a limitation  
35 in the fields of vision such that the widest diameter of the visual  
36 field subtends an angle no greater than 20 degrees.

37 (h) In the case of an individual with respect to whom a credit  
38 under this section is allowable to another taxpayer for a taxable  
39 year beginning in the calendar year in which the individual's

1 taxable year begins, the credit amount applicable to that individual  
2 for that individual's taxable year is zero.

3 (i) For each taxable year beginning on or after January 1, 1989,  
4 the Franchise Tax Board shall compute the credits prescribed in  
5 this section. That computation shall be made as follows:

6 (1) The California Department of Industrial Relations shall  
7 transmit annually to the Franchise Tax Board the percentage change  
8 in the California Consumer Price Index for all items from June of  
9 the prior calendar year to June of the current calendar year, no  
10 later than August 1 of the current calendar year.

11 (2) The Franchise Tax Board shall add 100 percent to the  
12 percentage change figure which is furnished to them pursuant to  
13 paragraph (1), and divide the result by 100.

14 (3) The Franchise Tax Board shall multiply the immediately  
15 preceding taxable year credits by the inflation adjustment factor  
16 determined in paragraph (2), and round off the resulting products  
17 to the nearest one dollar (\$1).

18 (4) In computing the credits pursuant to this subdivision, the  
19 credit provided in subdivision (b) shall be twice the credit provided  
20 in subdivision (a).

21 SEC. 77. Section 17077 of the Revenue and Taxation Code is  
22 amended to read:

23 17077. Section 68 of the Internal Revenue Code, relating to  
24 overall limitation on itemized deductions, shall apply, except as  
25 otherwise provided.

26 (a) "Six percent" shall be substituted for "3 percent" in Section  
27 68(a)(1) of the Internal Revenue Code.

28 (b) Section 68(b)(1) of the Internal Revenue Code shall not  
29 apply and in lieu thereof the term "applicable amount" in each  
30 place it appears in Section 68(a) of the Internal Revenue Code  
31 means one hundred thousand dollars (\$100,000) in the case of a  
32 single individual or a married individual filing a separate return,  
33 one hundred fifty thousand dollars (\$150,000) in the case of a head  
34 of household, and two hundred thousand dollars (\$200,000) in the  
35 case of a surviving spouse or a ~~husband and wife~~ *married couple*  
36 filing a joint return.

37 (c) Section 68(b)(2) of the Internal Revenue Code, relating to  
38 inflation adjustments, shall not apply. However, for any taxable  
39 year beginning on or after January 1, 1992, the applicable amounts  
40 specified in subdivision (b) shall be recomputed annually in the

1 same manner as the recomputation of income tax brackets under  
2 subdivision (h) of Section 17041.

3 (d) Section 68(f) of the Internal Revenue Code, relating to  
4 phaseout of limitation, shall not apply.

5 (e) Section 68(g) of the Internal Revenue Code, relating to  
6 termination, shall not apply.

7 SEC. 78. Section 17555 of the Revenue and Taxation Code is  
8 amended to read:

9 17555. In any case where ~~husband and wife~~ *spouses* file  
10 separate returns, the Franchise Tax Board may distribute, apportion  
11 or allocate gross income between the spouses, if it is determined  
12 that such distribution, apportionment or allocation is necessary in  
13 order to reflect the proper income of the spouses.

14 SEC. 79. Section 18501 of the Revenue and Taxation Code is  
15 amended to read:

16 18501. (a) Every individual taxable under Part 10  
17 (commencing with Section 17001) shall make a return to the  
18 Franchise Tax Board, stating specifically the items of the  
19 individual's gross income from all sources and the deductions and  
20 credits allowable, if the individual has any of the following for the  
21 taxable year:

22 (1) An adjusted gross income from all sources in excess of eight  
23 thousand dollars (\$8,000), if single.

24 (2) An adjusted gross income from all sources in excess of  
25 sixteen thousand dollars (\$16,000), if married.

26 (3) A gross income from all sources in excess of ten thousand  
27 dollars (\$10,000), if single, and twenty thousand dollars (\$20,000),  
28 if married, regardless of the amount of adjusted gross income.

29 (4) In the case of an individual described in Section 63(c)(5) of  
30 the Internal Revenue Code, relating to limitation on basic standard  
31 deduction in the case of certain dependents, a gross income from  
32 all sources that exceeds the amount of the standard deduction  
33 allowed under that section.

34 (b) If a ~~husband and wife~~ *married couple* has for the  
35 taxable year an adjusted gross income from all sources in excess  
36 of sixteen thousand dollars (\$16,000) or a gross income from all  
37 sources in excess of twenty thousand dollars (\$20,000), each *spouse*  
38 shall make a return or the income of each shall be included on a  
39 single joint return as otherwise provided in this article.

1 (c) For any individual described in paragraph (1) or (2), the  
2 Franchise Tax Board shall recompute the amounts provided in  
3 subdivision (b) and paragraphs (1) to (3), inclusive, of subdivision  
4 (a) as follows:

5 (1) For any individual eligible to claim the credit described in  
6 subdivision (c) of Section 17054, the Franchise Tax Board shall  
7 increase the income amounts described in subdivision (b) and  
8 paragraphs (1) to (3), inclusive, of subdivision (a), as adjusted by  
9 subdivision (d), by the quotient provided by dividing the credit  
10 described in subdivision (c) of Section 17054, as adjusted in  
11 subdivision (i) of Section 17054, by 2 percent.

12 (2) For any individual or married couple eligible to claim the  
13 credit described in subdivision (d) of Section 17054, the Franchise  
14 Tax Board shall increase the income amounts described in  
15 subdivision (b) or paragraphs (1) to (3), inclusive, of subdivision  
16 (a), as adjusted by subdivision (d), by the quotient provided by  
17 dividing each credit described in subdivision (d) of Section 17054,  
18 as adjusted in subdivision (i) of Section 17054, by the following:

19 (A) If the individual or married couple is not eligible to claim  
20 the credit allowed in subdivision (c) of Section 17054, 3 percent  
21 for the first dependent credit and 4 percent for the second dependent  
22 credit, if any.

23 (B) If the individual or married couple is eligible to claim the  
24 credit allowed in subdivision (c) of Section 17054, 4 percent for  
25 the first dependent credit and 5 percent for the second dependent  
26 credit, if any.

27 (d) For each taxable year beginning on or after January 1, 1996,  
28 the Franchise Tax Board shall recompute the income amounts  
29 prescribed in paragraphs (1) to (3), inclusive, of subdivision (a)  
30 and in subdivision (b), as follows:

31 (1) The Department of Industrial Relations shall transmit  
32 annually to the Franchise Tax Board the percentage change in the  
33 California Consumer Price Index for all items from June of the  
34 prior calendar year to June of the current calendar year, no later  
35 than August 1 of the current calendar year.

36 (2) The Franchise Tax Board shall do both of the following:

37 (A) Compute an inflation adjustment factor by adding 100  
38 percent to the percentage change figure that is furnished pursuant  
39 to paragraph (1) and dividing the result by 100.

1 (B) Multiply the income amounts for the preceding taxable year  
2 by the inflation adjustment factor determined in subparagraph (A)  
3 and round off the resulting products to the nearest one dollar (\$1).

4 (e) The changes to subdivision (c) made by the act adding this  
5 subdivision shall apply to each taxable year beginning on or after  
6 January 1, 1999.

7 SEC. 80. Section 18522 of the Revenue and Taxation Code is  
8 amended to read:

9 18522. If an individual has filed a separate return for a taxable  
10 year for which a joint return could have been made by him or her  
11 and his or her spouse under Section 18521, and the time prescribed  
12 for filing the return for that taxable year has expired, that individual  
13 and his or her spouse may nevertheless make a joint return for that  
14 taxable year, provided a joint federal income tax return is made  
15 under the provisions of Section 6013(b) of the Internal Revenue  
16 Code. A joint return filed by the ~~husband and wife~~ *married couple*  
17 in that case shall constitute the return of the ~~husband and wife~~  
18 *married couple* for that taxable year, and all payments, credits,  
19 refunds, or other repayments made or allowed with respect to the  
20 separate return of either spouse for that taxable year shall be taken  
21 into account in determining the extent to which the tax based upon  
22 the joint return has been paid.

23 SEC. 81. Section 18530 of the Revenue and Taxation Code is  
24 amended to read:

25 18530. Where the amount shown as the tax by the ~~husband~~  
26 ~~and wife~~ *married couple* on a joint return made under Section  
27 18522 exceeds the aggregate of the amounts shown as the tax upon  
28 the separate return of each spouse, each of the following shall  
29 apply:

30 (a) If any part of the excess is attributable to negligence or  
31 intentional disregard of rules and regulations (but without intent  
32 to defraud) at the time of the making of the separate return, then  
33 20 percent of the total amount of the excess shall be assessed,  
34 collected and paid, in lieu of the 20 percent addition to the tax  
35 provided in subdivision (a) of Section 19164.

36 (b) If any part of the excess is attributable to fraud with intent  
37 to evade tax at the time of the making of the separate return, then  
38 75 percent of the total amount of the excess shall be assessed,  
39 collected and paid, in lieu of the 75 percent addition to the tax  
40 provided in subdivision (b) of Section 19164.

1 SEC. 82. Section 18531.5 of the Revenue and Taxation Code  
2 is amended to read:

3 18531.5. For purposes of Section 443 of the Internal Revenue  
4 Code, where the ~~husband and wife~~ *spouses* have different taxable  
5 years because of the death of either spouse, the joint return shall  
6 be treated as if the taxable years of both spouses ended on the date  
7 of the closing of the surviving spouse's taxable year.

8 SEC. 83. Section 18532 of the Revenue and Taxation Code is  
9 amended to read:

10 18532. For the purposes of this article, each of the following  
11 shall apply:

12 (a) The status as ~~husband and wife~~ *married* of two individuals  
13 having taxable years beginning on the same day shall be determined  
14 as follows:

15 (1) If both have the same taxable year, then as of the close of  
16 that year.

17 (2) If one dies before the close of the taxable year of the other,  
18 then as of the time of the death.

19 (b) An individual who is legally separated from his or her spouse  
20 under a decree of divorce or of separate maintenance shall not be  
21 considered as married.

22 (c) If a joint return is made, the tax shall be computed on the  
23 aggregate income and the liability with respect to the tax shall be  
24 joint and several.

25 SEC. 84. Section 19006 of the Revenue and Taxation Code is  
26 amended to read:

27 19006. (a) The spouse who controls the disposition of or who  
28 receives or spends community income as well as the spouse who  
29 is taxable on the income is liable for the payment of the taxes  
30 imposed by Part 10 (commencing with Section 17001) on that  
31 income.

32 (b) Whenever a joint return is filed by a ~~husband and wife,~~  
33 *married couple*, the liability for the tax on the aggregate income  
34 is joint and several. The liability may be revised by a court in a  
35 proceeding for dissolution of the marriage of the ~~husband and wife,~~  
36 *married couple*, provided:

37 (1) The order revising tax liability may not relieve a spouse of  
38 tax liability on income earned by or subject to the exclusive  
39 management and control of the spouse. The liability of the spouse  
40 for the tax, penalties, and interest due for the taxable year shall be

1 in the same ratio to total tax, penalties, and interest due for the  
2 taxable year as the income earned by or subject to the management  
3 and control of the spouse is to total gross income reportable on the  
4 return.

5 (2) The order revising tax liability:

6 (A) Must separately state the income tax liabilities for the  
7 taxable years for which revision of tax liability is granted.

8 (B) Shall not revise a tax liability that has been fully paid prior  
9 to the effective date of the order; however, any unpaid amount  
10 may be revised.

11 (C) Shall become effective when the Franchise Tax Board is  
12 served with or acknowledges receipt of the order.

13 (D) Shall not be effective if the gross income reportable on the  
14 return exceeds one hundred fifty thousand dollars (\$150,000) or  
15 the amount of tax liability the spouse is relieved of exceeds seven  
16 thousand five hundred dollars (\$7,500), unless a tax revision  
17 clearance certificate is obtained from the Franchise Tax Board and  
18 filed with the court.

19 (c) Notwithstanding subdivisions (a) and (b), whenever a joint  
20 return is filed by a ~~husband and wife~~ *married couple* and the tax  
21 liability is not fully paid, that liability, including interest and  
22 penalties, may be revised by the Franchise Tax Board as to one  
23 spouse.

24 (1) However, the liability shall not be revised:

25 (A) To relieve a spouse of tax liability on income earned by or  
26 subject to the exclusive management and control of the spouse.  
27 The liability of the spouse for the tax, penalties, and interest due  
28 for the taxable year shall be in the same ratio to total tax, penalties,  
29 and interest due for the taxable year as the income earned by or  
30 subject to the management and control of the spouse is to total  
31 gross income reportable on the return.

32 (B) To relieve a spouse of liability below the amount actually  
33 paid on the liability prior to the granting of relief, including credit  
34 from any other taxable year available for application to the liability.

35 (2) The liability may be revised only if the spouse whose liability  
36 is to be revised establishes that he or she did not know of, and had  
37 no reason to know of, the nonpayment at the time the return was  
38 filed. For purposes of this paragraph, “reason to know” means  
39 whether or not a reasonably prudent person would have had reason  
40 to know of the nonpayment.

1 (3) For purposes of this section, the determination of the spouse  
2 to whom items of gross income are attributable shall be made  
3 without regard to community property laws.

4 (4) The determination of the Franchise Tax Board as to whether  
5 the liability is to be revised as to one spouse shall be made not less  
6 than 30 days after notification of the other spouse and shall be  
7 based upon whether, under all of the facts and circumstances  
8 surrounding the nonpayment, it would be inequitable to hold the  
9 spouse requesting revision liable for the nonpayment. Any action  
10 taken under this section shall be treated as though it were action  
11 on a protest taken under Section 19044 and shall become final  
12 upon the expiration of 30 days from the date that notice of the  
13 action is mailed to both spouses, unless, within that 30-day period,  
14 one or both spouses appeal the determination to the board as  
15 provided in Section 19045.

16 (5) This subdivision shall apply to all taxable years subject to  
17 the provisions of this part, but shall not apply to any taxable year  
18 which has been closed by a statute of limitations, *res judicata*, or  
19 otherwise.

20 SEC. 85. Section 19035 of the Revenue and Taxation Code is  
21 amended to read:

22 19035. In the case of a joint return filed by ~~husband and wife,~~  
23 *a married couple*, the notice of proposed deficiency assessment  
24 may be a single joint notice, except that if the Franchise Tax Board  
25 is notified by either spouse that separate residences have been  
26 established, it shall mail to each spouse, in lieu of the single joint  
27 notice, duplicate originals of the joint notice.

28 SEC. 86. Section 19107 of the Revenue and Taxation Code is  
29 amended to read:

30 19107. Where an overpayment is made by any individual for  
31 any year, and a deficiency is owing from the ~~husband or wife~~  
32 *spouse* of the taxpayer for the same year, and both ~~husband and~~  
33 ~~wife spouses~~ notify the Franchise Tax Board in writing prior to  
34 the expiration of the time within which credit for the overpayment  
35 may be allowed that the overpayment may be credited against the  
36 deficiency, no interest shall be assessed on that portion of the  
37 deficiency as is extinguished by the credit for the period of time  
38 subsequent to the date the overpayment was made.

39 SEC. 87. Section 19110 of the Revenue and Taxation Code is  
40 amended to read:

1 19110. (a) When the correction of an erroneous inclusion or  
2 deduction of an item or items in the computation of income of a  
3 trust, estate, parent, ~~husband, or wife~~ *or spouse* for any year results  
4 in an overpayment for that year by the trust, estate, parent, ~~husband,~~  
5 ~~or wife,~~ *or spouse*, and also results in a deficiency for the same  
6 year for a grantor of the trust or beneficiary of the estate or trust,  
7 or child of the parent, or spouse of the child, or the spouse of the  
8 ~~husband or wife,~~ *spouse*, the overpayment, if the period within  
9 which credit for the overpayment may be allowed has not expired,  
10 shall be credited on the deficiency, if the period within which the  
11 deficiency may be proposed has not expired, and the balance, if  
12 any, shall be credited or refunded. No interest shall be assessed  
13 on the portion of the deficiency as is extinguished by the credit  
14 for the period of time subsequent to the date the overpayment was  
15 made.

16 (b) When the correction of an erroneous inclusion or deduction  
17 of an item or items in the computation of income of a grantor of  
18 a trust, beneficiary of an estate or trust, a child, or spouse of the  
19 child, or a ~~husband or wife~~ *spouse* for any year results in an  
20 overpayment for that year by the grantor, beneficiary, ~~child or~~  
21 ~~husband or wife,~~ *child, or spouse*, and also results in a deficiency  
22 for the same year for the grantor's or beneficiary's trust, the  
23 beneficiary's estate, the child's parent, or spouse of the child, or  
24 the beneficiary's spouse, the overpayment, if the period within  
25 which credit for the overpayment may be allowed has not expired,  
26 shall be credited on the deficiency, if the period within which the  
27 deficiency may be proposed has not expired, and the balance, if  
28 any, shall be credited or refunded. No interest shall be assessed  
29 on the portion of the deficiency as is extinguished by the credit  
30 for the period of time subsequent to the date the overpayment was  
31 made.

32 (c) Subdivisions (a) and (b) are not intended, nor shall they be  
33 construed as a limitation on the Franchise Tax Board's right to  
34 offset or recoup barred assessments against overpayments.

35 SEC. 88. Section 19701.5 of the Revenue and Taxation Code  
36 is amended to read:

37 19701.5. (a) Any person who signs his or her spouse's name  
38 on any income tax return, or any schedules or attachments thereto,  
39 or who files electronically pursuant to Section 18621.5, without  
40 the consent of the spouse as provided in subdivision (b), is guilty

1 of a misdemeanor and shall upon conviction be fined an amount  
2 not to exceed five thousand dollars (\$5,000) or be imprisoned for  
3 a term not to exceed one year, or both, at the discretion of the court,  
4 together with costs of investigation and prosecution.

5 (b) Notwithstanding subdivision (a), any person who signs his  
6 or her spouse's name shall not be guilty of a misdemeanor when  
7 one spouse is physically unable by reason of disease or injury to  
8 sign a joint return, and the other spouse, with the oral consent of  
9 the one who is incapacitated, signs the incapacitated spouse's name  
10 in the proper place on the return followed by the words "By \_\_\_\_\_,  
11 ~~Husband~~ (or *Spouse (or Husband or Wife)*)," and by the signature  
12 of the signing spouse in his or her own right, provided that a dated  
13 statement signed by the spouse who is signing the return is attached  
14 to and made a part of the return stating each of the following:

15 (1) The name of the return being filed.

16 (2) The taxable year.

17 (3) The reason for the inability of the spouse who is  
18 incapacitated to sign the return.

19 (4) That the spouse who is incapacitated consented to the signing  
20 of the return and that the taxpayer and his or her agent, if any, are  
21 responsible for the return as made and incur liability for the  
22 penalties provided for erroneous, false, or fraudulent returns.

23 (c) The penalties provided by this section are cumulative and  
24 shall not be construed as restricting any other penalty provided by  
25 law based upon the same facts, including any penalty under Section  
26 470 of the Penal Code. However, an act or omission which is made  
27 punishable in different ways by this section and different provisions  
28 of the Penal Code shall not be punished under more than one  
29 provision.

30 SEC. 89. Section 20542 of the Revenue and Taxation Code is  
31 amended to read:

32 20542. (a) The Franchise Tax Board, pursuant to the provisions  
33 of Article 3 (commencing with Section 20561), of this chapter,  
34 shall provide assistance to the claimant based on a percentage of  
35 the property tax accrued and paid by the claimant on the residential  
36 dwelling as provided in Section 20543 or the statutory property  
37 tax equivalent pursuant to Section 20544. In case of an  
38 owner-claimant, the assistance shall be equal to the applicable  
39 percentage of property taxes paid on the full value of the residential  
40 dwelling up to, and including, thirty-four thousand dollars

1 (\$34,000). No assistance shall be allowed for property taxes paid  
2 on that portion of full value of a residential dwelling exceeding  
3 thirty-four thousand dollars (\$34,000). No assistance shall be  
4 provided if the amount of the assistance claim is five dollars (\$5)  
5 or less.

6 (b) For purposes of allowing assistance provided for by this  
7 section:

8 (1) (A) Only one owner-claimant from one household each  
9 year shall be entitled to assistance under this chapter. When two  
10 or more individuals of a household are able to meet the  
11 qualifications for an owner-claimant, they may determine who the  
12 owner-claimant shall be. If they are unable to agree, the matter  
13 shall be referred to the Franchise Tax Board and its decision shall  
14 be final.

15 (B) When two or more individuals pay rent for the same  
16 premises and each individual meets the qualifications for a  
17 renter-claimant, each qualified individual shall be entitled to  
18 assistance under this part.

19 For the purposes of this subparagraph, ~~a husband and wife~~  
20 *spouses* residing in the same premises shall be presumed to be one  
21 renter.

22 (2) Except as provided in paragraph (3), the right to file a claim  
23 shall be personal to the claimant and shall not survive his *or her*  
24 death; however, when a claimant dies after having filed a timely  
25 claim, the amount thereof may be disbursed to the surviving spouse  
26 and, if no surviving spouse, to any other member of the household  
27 who is a qualified claimant. If there is no surviving spouse or  
28 otherwise qualified claimant, the claim shall be disbursed to any  
29 other member of the household. In the event two or more  
30 individuals qualify for payment as either an otherwise qualified  
31 claimant or a member of the household, they may determine which  
32 of them will be paid. If they are unable to agree, the matter shall  
33 be referred to the Franchise Tax Board and its decision shall be  
34 final.

35 (3) If, after January 1 of the property tax fiscal year for which  
36 a claim may be filed, a claimant dies without filing a timely claim,  
37 a claim on behalf of such claimant may be filed by the surviving  
38 spouse within the filing period prescribed in subdivision (a) or (b)  
39 of Section 20563.

1 (4) If an individual postponed taxes for any given property tax  
2 fiscal year under Chapter 2 (commencing with Section 20581),  
3 Chapter 3 (commencing with Section 20625), Chapter 3.3  
4 (commencing with Section 20639), or Chapter 3.5 (commencing  
5 with Section 20640), then any claim for assistance under this  
6 chapter for the same property tax fiscal year shall be filed by such  
7 individual (assuming all other eligibility requirements in this  
8 chapter are satisfied) and not an otherwise qualified member of  
9 the individual's household.

10 SEC. 90. Section 2804 of the Streets and Highways Code is  
11 amended to read:

12 2804. (a) This division does not apply to irrigation districts,  
13 irrigation district improvement districts, fire districts, fire protection  
14 districts, or public cemetery districts, or to any proceeding  
15 otherwise subject to this division when one or more of the  
16 following situations exist:

17 (1) The proceedings are undertaken by a district or public  
18 corporation within one year of its incorporation.

19 (2) The improvement proceedings are by a chartered city,  
20 chartered county, or a county sanitation district which is governed  
21 ex officio by the board of supervisors of a chartered county, and  
22 the city, county, or district has complied with Section 19 of Article  
23 XVI of the California Constitution.

24 (3) All of the owners of more than 60 percent in area of the  
25 property subject to assessment for the proposed improvements  
26 have signed and filed with the clerk or secretary of the legislative  
27 body undertaking the proceedings a written petition for the  
28 improvements meeting the requirements of Section 2804.5.

29 (b) As used in this section, "substantially described" means that  
30 additional improvements of the same or similar nature may not be  
31 provided unless the estimated cost of the improvements does not  
32 exceed 10 percent of the estimated cost of the improvements  
33 provided in the former report.

34 (c) As used in this section, "owner of land" means only a person  
35 who, at the time the petition is filed with the clerk or secretary of  
36 the legislative body, appears to be the owner upon the assessor's  
37 roll or, in the case of transfers of land, or parts thereof, subsequent  
38 to the date upon which the last assessor's roll was prepared, appear  
39 to be the owner on the records in the county assessor's office which  
40 the county assessor will use to prepare the next assessor's roll. If

1 any person signing the petition appears on the assessor's roll or  
2 the records in the county assessor's office as an owner of property  
3 as a joint tenant or tenant in common, or as a ~~husband or wife,~~  
4 *spouse*, that property shall be counted as if all those persons had  
5 signed the petition.

6 SEC. 91. Section 13003 of the Unemployment Insurance Code  
7 is amended to read:

8 13003. (a) Except where the context otherwise requires, the  
9 definitions set forth in this chapter, and in addition the definitions  
10 and provisions of the Personal Income Tax Law referred to and  
11 hereby incorporated by reference as set forth in the following  
12 provisions of the Revenue and Taxation Code, shall apply to and  
13 govern the construction of this division:

- 14 (1) "Corporation" as defined by Section 17009.
- 15 (2) "Fiduciary" as defined by Section 17006.
- 16 (3) "Fiscal year" as defined by Section 17011.
- 17 (4) "Foreign country" as defined by Section 17019.
- 18 (5) "Franchise Tax Board" as defined by Section 17003.
- 19 (6) ~~"Husband" and "wife"~~ "Spouse" as defined by Section  
20 17021.
- 21 (7) "Individual" as defined by Section 17005.
- 22 (8) "Military or naval forces" as defined by Section 17022.
- 23 (9) "Nonresident" as defined by Section 17015.
- 24 (10) "Partnership" as defined by Section 17008.
- 25 (11) "Person" as defined by Section 17007.
- 26 (12) "Resident" as defined by Sections 17014 and 17016.
- 27 (13) "State" as defined by Section 17018.
- 28 (14) "Taxable year" as defined by Section 17010.
- 29 (15) "Taxpayer" as defined by Section 17004.
- 30 (16) "Trade or business" as defined by Section 17020.
- 31 (17) "United States" as defined by Section 17017.

32 (b) The provisions of Part 10 (commencing with Section 17001)  
33 and Part 10.2 (commencing with Section 18401) of Division 2 of  
34 the Revenue and Taxation Code, relating to the following items,  
35 are hereby incorporated by reference and shall apply to and govern  
36 construction of this division:

- 37 (1) Trade or business expense (Article 6 (commencing with  
38 Section 17201) of Chapter 3 of Part 10).
- 39 (2) Deductions for retirement savings (Article 6 (commencing  
40 with Section 17201) of Chapter 3 of Part 10).

1 (3) Distributions of property by a corporation to a shareholder  
2 (Chapter 4 (commencing with Section 17321) of Part 10).

3 (4) Deferred compensation (Chapter 5 (commencing with  
4 Section 17501) of Part 10).

5 (5) Partners and partnerships (Chapter 10 (commencing with  
6 Section 17851) of Part 10).

7 (6) Gross income of nonresident taxpayers Chapter 11  
8 (commencing with Section 17951) of Part 10).

9 (7) Postponement of the time for certain acts by individuals in  
10 or in support of the armed forces (Article 3 (commencing with  
11 Section 18621) of Chapter 2 of Part 10.2).

12 (8) Disclosure of information (Article 2 (commencing with  
13 Section 19542) of Chapter 7 of Part 10.2). For this purpose  
14 “Franchise Tax Board” as used therein shall mean the Employment  
15 Development Department in respect to information obtained in  
16 the administration of this division.

17 SEC. 92. Section 742.16 of the Welfare and Institutions Code  
18 is amended to read:

19 742.16. (a) If a minor is found to be a person described in  
20 Section 602 by reason of the commission of an act prohibited by  
21 Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal  
22 Code, and the court does not remove the minor from the physical  
23 custody of the parent or guardian, the court as a condition of  
24 probation, except in any case in which the court makes a finding  
25 and states on the record its reasons why that condition would be  
26 inappropriate, shall require the minor to wash, paint, repair, or  
27 replace the property defaced, damaged, or destroyed by the minor  
28 or otherwise pay restitution to the probation officer of the county  
29 for disbursement to the owner or possessor of the property or both.  
30 In any case in which the minor is not granted probation or in which  
31 the minor’s cleanup, repair, or replacement of the property will  
32 not return the property to its condition before it was defaced,  
33 damaged, or destroyed, the court shall make a finding of the  
34 amount of restitution that would be required to fully compensate  
35 the owner and possessor of the property for their damages. The  
36 court shall order the minor or the minor’s estate to pay that  
37 restitution to the probation officer of the county for disbursement  
38 to the owner or possessor of the property or both, to the extent the  
39 court determines that the minor or the minor’s estate have the  
40 ability to do so, except in any case in which the court makes a

1 finding and states on the record its reasons why full restitution  
2 would be inappropriate. If full restitution is found to be  
3 inappropriate, the court shall require the minor to perform specified  
4 community service, except in any case in which the court makes  
5 a finding and states on the record its reasons why that condition  
6 would be inappropriate.

7 (b) If a minor is found to be a person described in Section 602  
8 by reason of the commission of an act prohibited by Section 594,  
9 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the  
10 graffiti or other material inscribed by the minor has been removed,  
11 or the property defaced by the minor has been repaired or replaced  
12 by a public entity that has elected, pursuant to Section 742.14, to  
13 have the probation officer of the county recoup its costs through  
14 proceedings in accordance with this section and has made cost  
15 findings in accordance with subdivisions (c) or (d) of Section  
16 742.14, the court shall determine the total cost incurred by the  
17 public entity for said removal, repair, or replacement, using, if  
18 applicable, the cost findings most recently adopted by the public  
19 entity pursuant to subdivision (c) or (d) of Section 742.14. The  
20 court shall order the minor or the minor's estate to pay those costs  
21 to the probation officer of the county to the extent the court  
22 determines that the minor or the minor's estate have the ability to  
23 do so.

24 (c) If the minor is found to be a person described in Section 602  
25 by reason of the commission of an act prohibited by Section 594,  
26 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the  
27 minor was identified or apprehended by the law enforcement  
28 agency of a city or county that has elected, pursuant to Section  
29 742.14, to have the probation officer of the county recoup its costs  
30 through proceedings in accordance with this section, the court shall  
31 determine the cost of identifying or apprehending the minor, or  
32 both, using, if applicable, the cost findings adopted by the city or  
33 county pursuant to subdivision (b) of Section 742.14. The court  
34 shall order the minor or the minor's estate to pay those costs to  
35 the probation officer of the county to the extent the court  
36 determines that the minor or the minor's estate has the ability to  
37 do so.

38 (d) If the court determines that the minor or the minor's estate  
39 is unable to pay in full the costs and damages determined pursuant  
40 to subdivisions (a), (b), and (c), and if the minor's parent or parents

1 have been cited into court pursuant to Section 742.18, the court  
2 shall hold a hearing to determine the liability of the minor's parent  
3 or parents pursuant to Section 1714.1 of the Civil Code for those  
4 costs and damages. Except when the court makes a finding setting  
5 forth unusual circumstances in which parental liability would not  
6 serve the interests of justice, the court shall order the minor's parent  
7 or parents to pay those costs and damages to the probation officer  
8 of the county to the extent the court determines that the parent or  
9 parents have the ability to pay, if the minor was in the custody or  
10 control of the parent or parents at the time he or she committed  
11 the act that forms the basis for the finding that the minor is a person  
12 described in Section 602. In evaluating the parent's or parents'  
13 ability to pay, the court shall take into consideration the family  
14 income, the necessary obligations of the family, and the number  
15 of persons dependent upon this income.

16 (e) The hearing described in subdivision (d) may be held  
17 immediately following the disposition hearing or at a later date,  
18 at the option of the court.

19 (f) If the amount of costs and damages sought to be recovered  
20 in the hearing pursuant to subdivision (d) is five thousand dollars  
21 (\$5,000) or less, the parent or parents may not be represented by  
22 counsel and the probation officer of the county shall be represented  
23 by his or her nonattorney designee. The court shall conduct that  
24 hearing in accordance with Sections 116.510 and 116.520 of the  
25 Code of Civil Procedure. Notwithstanding the foregoing, if the  
26 court determines that a parent cannot properly present his or her  
27 defense, the court may, in its discretion, allow another individual  
28 to assist that parent. In addition, a ~~husband or wife~~ *spouse* may  
29 appear and participate in the hearing on behalf of his or her spouse  
30 if the representative's spouse has given his or her consent and the  
31 court determines that the interest of justice would be served  
32 thereby.

33 (g) If the amount of costs and damages sought to be recovered  
34 in the hearing pursuant to subdivision (d) exceeds five thousand  
35 dollars (\$5,000), the parent or parents may be represented by  
36 counsel of his or her or their own choosing, and the probation  
37 officer of the county shall be represented by the district attorney  
38 or an attorney or nonattorney designee of the probation officer.  
39 The parent or parents shall not be entitled to court-appointed  
40 counsel or to counsel compensated at public expense.

1 (h) At the hearing conducted pursuant to subdivision (d), there  
2 shall be a presumption affecting the burden of proof that the  
3 findings of the court made pursuant to subdivisions (a), (b), and  
4 (c) represent the actual damages and costs attributable to the act  
5 of the minor that forms the basis of the finding that the minor is a  
6 person described in Section 602.

7 (i) If the parent or parents, after having been cited to appear  
8 pursuant to Section 742.18, fail to appear as ordered, the court  
9 shall order the parent or parents to pay the full amount of the costs  
10 and damages determined by the court pursuant to subdivisions (a),  
11 (b), and (c).

12 (j) Execution may be issued on an order issued by the court  
13 pursuant to this section in the same manner as on a judgment in a  
14 civil action, including any balance unpaid at the termination of the  
15 court's jurisdiction over the minor.

16 (k) At any time prior to the satisfaction of a judgment entered  
17 pursuant to this section, a person against whom the judgment was  
18 entered may petition the rendering court to modify or vacate the  
19 judgment on the showing of a change in circumstances relating to  
20 his or her ability to pay the judgment.

21 (l) For purposes of a hearing conducted pursuant to subdivision  
22 (d), the judge of the juvenile court shall have the jurisdiction of a  
23 judge of the superior court in a limited civil case, and if the amount  
24 of the demand is within the jurisdictional limits stated in Sections  
25 116.220 and 116.221 of the Code of Civil Procedure, the judge of  
26 the juvenile court shall have the powers of a judge presiding over  
27 the small claims court.

28 (m) Nothing in this section shall be construed to limit the  
29 authority of a juvenile court to provide conditions of probation.

30 (n) The options available to the court pursuant to subdivisions  
31 (a), (b), (c), (d), and (k), to order payment by the minor and his or  
32 her parent or parents of less than the full costs described in  
33 subdivisions (a), (b), and (c), on grounds of financial inability or  
34 for reasons of justice, shall not be available to a superior court in  
35 an ordinary civil proceeding pursuant to subdivision (b) of Section  
36 1714.1 of the Civil Code, except that in any proceeding pursuant  
37 to either subdivision (b) of Section 1714.1 of the Civil Code or  
38 this section, the maximum amount that a parent or a minor may  
39 be ordered to pay shall not exceed twenty thousand dollars  
40 (\$20,000) for each tort of the minor.

1 SEC. 93. Section 7275 of the Welfare and Institutions Code is  
2 amended to read:

3 7275. (a) ~~The husband, wife, spouse,~~ father, mother, or children  
4 of a patient in a state hospital, the estates of these persons, and the  
5 guardian or conservator and administrator of the estate of the  
6 patient shall cause him or her to be properly and suitably cared for  
7 and maintained, and shall pay the costs and charges for  
8 transportation to a state institution. ~~The husband, wife, spouse,~~  
9 father, mother, or children of a patient in a state hospital and the  
10 administrators of their estates, and the estate of the person shall  
11 be liable for his or her care, support, and maintenance in a state  
12 institution of which he or she is a patient. The liability of these  
13 persons and estates shall be a joint and several liability, and the  
14 liability shall exist whether the person has become a patient of a  
15 state institution pursuant to the provisions of this code or pursuant  
16 to the provisions of Sections 1026, 1368, 1369, 1370, and 1372 of  
17 the Penal Code.

18 (b) This section does not impose liability for the care of persons  
19 with intellectual disabilities in state hospitals.

20 SEC. 94. Section 12003 of the Welfare and Institutions Code  
21 is amended to read:

22 12003. For the purposes of this chapter, neither the residence  
23 nor domicile of the ~~husband or wife~~ *spouse* shall be deemed the  
24 residence or domicile of the other, but each may have a separate  
25 residence or domicile dependent upon proof of the fact and not on  
26 legal presumption.

27 For the purposes of this chapter, a minor child shall be deemed  
28 to have resided in the state during any period in which such child  
29 has been physically present in the state.

30 SEC. 95. Section 14140 of the Welfare and Institutions Code  
31 is amended to read:

32 14140. The following definitions shall apply to the provisions  
33 of this article:

34 (a) "Net worth" means:

35 (1) Personal property, which consists of cash, savings accounts,  
36 securities, and similar items; notes, mortgages and deeds of trust;  
37 the cash surrender value of life insurance on the life of the applicant  
38 or beneficiary, on the life of the spouse or any member of the  
39 family, except as provided in Section 11158; motor vehicles, except  
40 one which meets the transportation needs of the person or family;

1 any other property or equity other than real estate, except that  
2 property specified in subdivisions (1), (2) and (3) of Section 11155.

3 (2) Real property, including any interest in land of more than  
4 nominal interest which does not constitute the home of the  
5 applicant for aid under this chapter. The home of the applicant  
6 shall be exempt from consideration as net worth under this section  
7 to the extent of ten thousand dollars (\$10,000) in assessed  
8 valuation, as assessed by the county assessor.

9 (3) "Income" which consists of the sum of adjusted gross income  
10 as used for purposes of the Federal Income Tax Law.

11 (b) "Family unit" means:

12 (1) In the case of an unmarried patient under 21 years of age  
13 living with his *or her* parent or parents, the patient and his *or her*  
14 parents.

15 (2) In the case of a married patient under 21 years of age, the  
16 patient and his *or her* spouse.

17 (3) In the case of a patient over 21, the patient, and if married,  
18 the patient's ~~wife~~. *spouse*.

19 SEC. 96. Section 18291 of the Welfare and Institutions Code  
20 is amended to read:

21 18291. For purposes of this chapter:

22 (a) "Domestic violence" means abuse committed against an  
23 adult or a minor who is a spouse, former spouse, cohabitant, former  
24 cohabitant, or person with whom the suspect has had a child or is  
25 having or has had a dating or engagement relationship.

26 (b) "Cohabitant" means two unrelated adult persons living  
27 together for a substantial period of time, resulting in some  
28 permanency of relationship. Factors that may determine whether  
29 persons are cohabiting include, but are not limited to, all of the  
30 following:

31 (1) Sexual relations between the parties while sharing the same  
32 living quarters.

33 (2) Sharing of income or expenses.

34 (3) Joint use or ownership of property.

35 (4) Whether the parties hold themselves out as ~~husband and~~  
36 ~~wife~~. *spouses*.

37 (5) The continuity of the relationship.

38 (6) The length of the relationship.

39 (c) "Domestic violence shelter" means a shelter for domestic  
40 violence victims that meets all of the following requirements:

- 1 (1) Provides shelter in an undisclosed and secured location.
- 2 (2) Provides staff that meet the requirements set forth in Section
- 3 1037.1 of the Evidence Code.
- 4 (3) Meets the requirements set forth in Section 18294.
- 5 (d) “Undisclosed” means a location that is not advertised or
- 6 publicized.

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