

AMENDED IN ASSEMBLY JUNE 3, 2015

AMENDED IN SENATE APRIL 14, 2015

**SENATE BILL**

**No. 414**

**Introduced by Senator Jackson**

**(Coauthor: Senator Leno)**

*(Principal coauthor: Assembly Member Williams)*

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. An act to amend~~

*Sections 8670.8.5, 8670.12, 8670.13, and 8670.67.5 of, and to add Sections 8670.11, 8670.12.1, 8670.13.3, 8670.31.5, and 8670.43 to, the Government Code, relating to oil spill response.*

## LEGISLATIVE COUNSEL'S DIGEST

SB 414, as amended, Jackson. ~~Marriage~~. Oil spill response.

*(1) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup. The act authorizes the administrator to use volunteer workers in response, containment, restoration, wildlife rehabilitation, and cleanup efforts for oil spills in waters of the state. Existing law requires the administrator to evaluate the feasibility of using commercial fishermen and other mariners for oil spill containment and cleanup.*

*This bill would require the administrator, in cooperation with the United States Coast Guard, to conduct an independent vessel traffic assessment for the San Francisco Bay that may inform an area rescue towing plan for the 3 approaches to the Golden Gate, and to establish a schedule of drills and exercises that are required under the federal Salvage and Marine Firefighting regulations. The bill would require the administrator to develop and implement a program to allow immediate response to an oil spill by contracted fishing vessels and crews. The bill would require the administrator, on or before July 1, 2016, to submit to the Legislature a report assessing the best available technology and equipment for oil spill prevention and response.*

*(2) The act requires operators of specified vessels and facilities to submit to the administrator an oil spill contingency plan to determine whether the plan meets applicable requirements. The act requires an operator to resubmit the plan to the administrator every 5 years.*

*This bill would require the administrator to adopt, by regulation, methodology to rate the oil spill prevention and response equipment listed in the plan to maintain the best achievable protection standards through the use of equipment that is the best available technology.*

*(3) The act requires the administrator to license oil spill cleanup agents for use in response to oil spills. The federal Coastal Zone Management Act (federal act) requires federal agency activities to be carried out in a manner that is consistent, to the maximum extent*

*practicable, with an approved state management plan. Existing federal law authorizes the California Coastal Commission, the designated state agency, to conduct federal consistency review to ensure federal agency activities are consistent with the California Coastal Management Program.*

*This bill would prohibit the use of oil spill cleanup agents in the waters of the state unless 2 specified conditions occur. The bill would require the California Coastal Commission to conduct a federal consistency review for federal policies authorizing the use of oil spill cleanup agents in the coastal waters of the state.*

*(4) Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to be sufficient to implement oil spill prevention activities. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury and moneys in the fund are available, upon appropriation by the Legislature, for, among other purposes, the implementation, installation, and maintenance of emergency programs, equipment, and facilities to respond to, contain, and clean up oil spills, and to ensure that those operations will be carried out as intended.*

*This bill would require the administrator, upon appropriation of funds for that purpose, to purchase specified oil spill response equipment, including specified equipment to be stationed on the Santa Barbara coastline.*

*(5) The act makes a person who causes or permits a spill or inland spill strictly liable for specified penalties for the spill on a per-gallon-released basis. The act provides that the amount of penalty is reduced by the amount of released oil that is recovered and properly disposed of.*

*This bill would provide that the above reduction in the penalty for spills, including inland spills, of greater than 500 gallons, is only applicable to the amount of oil recovered and properly disposed of within 2 weeks of the start of the spill.*

*(6) This bill would make legislative findings and declarations as to the necessity of a special statute for the San Francisco Bay and for the Santa Barbara coastline.*

~~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~~ yes.  
State-mandated local program: no.

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

1     *SECTION 1. Section 8670.8.5 of the Government Code is*  
2     *amended to read:*

3     8670.8.5. (a) The administrator may use volunteer workers in  
4     response, containment, restoration, wildlife rehabilitation, and  
5     cleanup efforts for oil spills in waters of the state. The volunteers  
6     shall be deemed employees of the state for the purpose of workers’  
7     compensation under Article 2 (commencing with Section 3350)  
8     of Chapter 2 of Part 1 of Division 4 of the Labor Code. Any  
9     payments for workers’ compensation pursuant to this section shall  
10    be made from the Oil Spill Response Trust Fund created pursuant  
11    to Section 8670.46.

12    (b) (1) *The administrator shall develop and implement a*  
13    *program to allow immediate response to an oil spill by contracted*  
14    *fishing vessels and crews and that shall provide for regularly*  
15    *scheduled emergency drills and training in areas that include the*  
16    *following:*

17    (A) *Shoreline protection.*

18    (B) *Towing boom and skimmers.*

19    (C) *Working with minibarges.*

20    (D) *Loading and unloading equipment from response barges.*

21    (2) *In developing the program, the administrator shall consider*  
22    *the fishing vessel training program funded and maintained by*  
23    *Alyeska’s Ship Escort/Response Vessel System.*

24    SEC. 2. *Section 8670.11 is added to the Government Code, to*  
25    *read:*

26    8670.11. *In addition to Section 8670.10, the administrator, in*  
27    *cooperation with the United States Coast Guard, shall establish*  
28    *a schedule of drills and exercises required pursuant to Section*  
29    *155.4052 of Title 33 of the Code of Federal Regulations. The*  
30    *administrator shall make publicly available the established*  
31    *schedule.*

1     *SEC. 3. Section 8670.12 of the Government Code is amended*  
2     *to read:*

3     8670.12. (a) The administrator shall conduct studies and  
4     evaluations necessary for improving oil spill response, containment,  
5     and cleanup and oil spill wildlife rehabilitation in waters of the  
6     state and oil transportation systems. The administrator may expend  
7     moneys from the Oil Spill Prevention and Administration Fund  
8     created pursuant to Section 8670.38, enter into consultation  
9     agreements, and acquire necessary equipment and services for the  
10    purpose of carrying out these studies and evaluations.

11    (b) The administrator shall study the use and effects of  
12    dispersants, incineration, bioremediation, and any other methods  
13    used to respond to a spill. The study shall periodically be updated  
14    to ensure the best achievable protection from the use of those  
15    methods. Based upon substantial evidence in the record, the  
16    administrator may determine in individual cases that best  
17    achievable protection is provided by establishing requirements  
18    that provide the greatest degree of protection achievable without  
19    imposing costs that significantly outweigh the incremental  
20    protection that would otherwise be provided. The studies shall do  
21    all of the following:

22    (1) Evaluate the effectiveness of dispersants and other chemical  
23    agents in oil spill response under varying environmental conditions.

24    (2) Evaluate potential adverse impacts on the environment and  
25    public health including, but not limited to, adverse toxic impacts  
26    on water quality, fisheries, and wildlife with consideration to  
27    bioaccumulation and synergistic impacts, and the potential for  
28    human exposure, including skin contact and consumption of  
29    contaminated seafood.

30    (3) Recommend appropriate uses and limitations on the use of  
31    dispersants and other chemical agents to ensure they are used only  
32    in situations where the administrator determines they are effective  
33    and safe.

34    ~~(c) The administrator shall evaluate the feasibility of using~~  
35    ~~commercial fishermen and other mariners for oil spill containment~~  
36    ~~and cleanup. The study shall examine the following:~~

37    ~~(1) Equipment and technology needs.~~

38    ~~(2) Coordination with private response personnel.~~

39    ~~(3) Liability and insurance.~~

40    ~~(4) Compensation.~~

1     ~~(d)~~

2     (c) The studies shall be performed in conjunction with any  
3 studies performed by federal, state, and international entities. The  
4 administrator may enter into contracts for the studies.

5     SEC. 4. Section 8670.12.1 is added to the Government Code,  
6 to read:

7     8670.12.1. *The administrator, in cooperation with the United*  
8 *States Coast Guard, shall conduct an independent vessel traffic*  
9 *risk assessment for the San Francisco Bay that may inform an area*  
10 *rescue towing plan for the three approaches to the Golden Gate.*

11     SEC. 5. Section 8670.13 of the Government Code is amended  
12 to read:

13     8670.13. (a) The administrator shall periodically evaluate the  
14 feasibility of requiring new technologies to aid prevention,  
15 response, containment, cleanup and wildlife rehabilitation.

16     (b) (1) *On or before July 1, 2016, the administrator shall submit*  
17 *a report to the Legislature, pursuant to Section 9795, assessing*  
18 *the best available technology and equipment for oil spill prevention*  
19 *and response, including, but not limited to, prevention and response*  
20 *tugs, tractor tugs, salvage and marine firefighting tugs, oil spill*  
21 *skimmers and barges, and protective in-water boom equipment.*

22     (2) *In conducting the assessment, the administrator shall consult*  
23 *the peer-reviewed research performed by the Prince William Sound*  
24 *Regional Citizens' Advisory Council.*

25     (3) *Pursuant to Section 10231.5, this subdivision is inoperative*  
26 *on July 1, 2020.*

27     (c) *Based on the report prepared pursuant to subdivision (b),*  
28 *the administrator shall establish standards for best achievable*  
29 *technologies for oil spill prevention and response.*

30     SEC. 6. Section 8670.13.3 is added to the Government Code,  
31 to read:

32     8670.13.3. (a) (1) (A) *Notwithstanding any law, oil spill*  
33 *cleanup agents shall not be used in response to an oil spill within*  
34 *the waters of the state unless both of the following occur:*

35     (i) *The administrator establishes, pursuant to Section 8670.13,*  
36 *standards for best achievable technologies for oil spill prevention*  
37 *and response.*

38     (ii) *The United States Environmental Protection Agency adopts*  
39 *amendments to subpart J of the National Oil and Hazardous*  
40 *Substances Pollution Contingency Plan (40 C.F.R. Sec. 300.900*

1 *et. seq.) governing the use of oil spill cleanup agents, other*  
2 *chemical and biological agents, and other oil spill mitigating*  
3 *substances in responding to oil discharges into water, as set forth*  
4 *in Docket ID No. EPA-HQ-OPA-2006-0090, and the administrator*  
5 *adopts regulations consistent with those federal amendments.*

6 *(B) Upon the occurrence of clauses (i) and (ii), the administrator*  
7 *shall notify the Secretary of State of those occurrences and shall*  
8 *post on the Office of Oil Spill Prevention and Response's Internet*  
9 *Web site a notice of those occurrences.*

10 *(2) For purposes of this section, "waters of the state" means*  
11 *any surface water, including saline water, within the boundary of*  
12 *the state.*

13 *(b) The California Coastal Commission, pursuant to Section*  
14 *307 of the federal Coastal Zone Management Act (16 U.S.C. Sec.*  
15 *1456) and the California Coastal Act (Division 20 (commencing*  
16 *with Section 30000) of the Public Resources Code), shall conduct*  
17 *a federal consistency review for federal policy authorizing the use*  
18 *of oil spill cleanup agents in the coastal waters of California.*

19 *SEC. 7. Section 8670.31.5 is added to the Government Code,*  
20 *to read:*

21 *8670.31.5. The administrator shall, by regulation, establish a*  
22 *methodology for rating equipment, such as oil containment,*  
23 *skimming, storage, and oil/water separation technologies, listed*  
24 *in an oil spill contingency plan to maintain the best achievable*  
25 *protection standards through the use of equipment that is the best*  
26 *available technology.*

27 *SEC. 8. Section 8670.43 is added to the Government Code, to*  
28 *read:*

29 *8670.43. Pursuant to paragraph (4) of subdivision (e) of*  
30 *Section 8670.40, the administrator, upon appropriation of funds*  
31 *for that purpose, shall do both of the following:*

32 *(a) Purchase at least two new-generation, high-efficiency disc*  
33 *skimmers to be stationed on the Santa Barbara coastline. This*  
34 *equipment shall include high-efficiency skimming NOFI current*  
35 *busters, or their equivalent, and Elastec grooved disc skimmers,*  
36 *or their equivalent.*

37 *(b) Purchase a purpose-built, prepositioned prevention and*  
38 *response tug with appropriate size, bollard pull, horsepower,*  
39 *propulsion, seakeeping, and maneuverability to meet Det Norske*  
40 *Veritas criteria for emergency towing.*

1     *SEC. 9. Section 8670.67.5 of the Government Code is amended*  
2     *to read:*

3     8670.67.5. (a) ~~Any~~ *Regardless of intent or negligence, any*  
4     person who ~~without regard to intent or negligence~~ causes or permits  
5     a spill shall be strictly liable civilly in accordance with subdivision  
6     (b) or (c).

7     (b) A penalty may be administratively imposed by the  
8     administrator in accordance with Section 8670.68 in an amount  
9     not to exceed twenty dollars (\$20) per gallon for a spill. ~~The~~ *Except*  
10    *as provided in subdivision (d), the* amount of the penalty shall be  
11    reduced for every gallon of released oil that is recovered and  
12    properly disposed of in accordance with applicable law.

13    (c) Whenever the release of oil resulted from gross negligence  
14    or reckless conduct, the administrator shall, in accordance with  
15    Section 8670.68, impose a penalty in an amount not to exceed  
16    sixty dollars (\$60) per gallon for a spill. ~~The~~ *Except as provided*  
17    *in subdivision (d), the* amount of the penalty shall be reduced for  
18    every gallon of released oil that is recovered and properly disposed  
19    of in accordance with applicable law.

20    (d) (1) *For a spill of greater than 500 gallons, the penalty*  
21    *assessed pursuant to subdivision (b) or (c) shall only be reduced*  
22    *for every gallon of released oil that is recovered and properly*  
23    *disposed of in accordance with applicable law within two weeks*  
24    *of the start of the spill.*

25    (2) *Notwithstanding Section 8670.69.7, any increase in the*  
26    *amount of a penalty assessed for an inland spill resulting from the*  
27    *operation of paragraph (1) shall be deposited in the Environmental*  
28    *Enhancement Fund pursuant to Section 8670.70.*

29    ~~(d)~~

30    (e) The administrator shall adopt regulations governing the  
31    method for determining the amount of oil that is cleaned up.

32    *SEC. 10. In regard to provisions of this act related to the San*  
33    *Francisco Bay or the Santa Barbara coastline, the Legislature*  
34    *finds and declares that a special law is necessary and that a*  
35    *general law cannot be made applicable within the meaning of*  
36    *Section 16 of Article IV of the California Constitution because of*  
37    *the unique maritime conditions in the San Francisco Bay that affect*  
38    *vessel traffic and the operation of offshore oil drilling platforms*  
39    *near the Santa Barbara coastline.*



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: \_\_\_\_\_  
23         \_\_\_\_\_

24     5.   Firm name (if different from "1"):  
25         \_\_\_\_\_  
26         \_\_\_\_\_

27     6.   Street address (main location):  
28         \_\_\_\_\_

29         # and Street                      City                      State                      ZIP Code  
30         \_\_\_\_\_

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

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

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

1  
2 10: Total number of interests sold to investors on the  
3 multilender's notes: \_\_\_\_\_  
4  
5 11: Inspection of trust account (before answering this question, review the  
6 provisions of paragraph (3) of subdivision (k) of Section 10238).  
7 CHECK ONLY ONE OF THE FOLLOWING:  
8 ( ) The undersigned Broker is (or expects to be) required to file reports of  
9 inspection of its trust account(s) with the Real Estate Commissioner  
10 pursuant to paragraph (3) of subdivision (k) of Section 10238.  
11 Amount of Multilender Payments Collected Last Fiscal Quarter: \_\_\_\_\_  
12  
13 Total Number of Investors Due Payments Last Fiscal Quarter: \_\_\_\_\_  
14  
15 ( ) The undersigned Broker is NOT (or does NOT expect to be) required to  
16 file reports of inspection of its trust account(s) with the Real Estate  
17 Commissioner pursuant to paragraph (3) of subdivision (k) of Section  
18 10238.  
19  
20 12: Signature. The contents of this notice are true and correct.  
21 \_\_\_\_\_  
22 Date Type Name of Broker  
23 \_\_\_\_\_  
24 Signature of Broker or of Designated Officer of  
25 Corporate Broker  
26 \_\_\_\_\_  
27 Type Name of Person(s) Signing This Notice  
28  
29 NOTE: AN AMENDED NOTICE MUST BE FILED BY THE  
30 BROKER WITHIN 30 DAYS OF ANY MATERIAL CHANGE  
31 IN THE INFORMATION REQUIRED TO BE SET FORTH  
32 HEREIN.  
33  
34 (b) A broker or person who becomes the servicing agent for  
35 notes or interest sold pursuant to this article, upon which payments  
36 due during any period of three consecutive months in the aggregate  
37 exceed one hundred twenty-five thousand dollars (\$125,000) or  
38 the number of persons entitled to the payments exceeds 120, shall

1 file the notice required by subdivision (a) with the commissioner  
2 within 30 days after becoming the servicing agent.

3 (e) All advertising employed for transactions under this article  
4 shall show the name of the broker and comply with Section 10235  
5 and Sections 260.302 and 2848 of Title 10 of the California Code  
6 of Regulations. Brokers and their agents are cautioned that a  
7 reference to a prospective investor that a transaction is conducted  
8 under this article may be deemed misleading or deceptive if this  
9 representation may reasonably be construed by the investor as an  
10 implication of merit or approval of the transaction.

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

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

28 (2) A note secured by a first trust deed on real property in a  
29 subdivision that evidences a bona fide loan made in connection  
30 with the financing of the usual cost of the development in a  
31 residential, commercial, or industrial building or buildings on the  
32 property under a written agreement providing for the disbursement  
33 of the loan funds as costs are incurred or in relation to the progress  
34 of the work and providing for title insurance ensuring the priority  
35 of the security as against mechanic’s and materialmen’s liens or  
36 for the final disbursement of at least 10 percent of the loan funds  
37 after the expiration of the period for the filing of mechanic’s and  
38 materialmen’s liens.

39 (e) The notes or interests shall be sold by or through a real estate  
40 broker, as principal or agent. At the time the interests are originally

1 sold or assigned, neither the broker nor an affiliate of the broker  
2 shall have an interest as owner, lessor, or developer of the property  
3 securing the loan, or any contractual right to acquire, lease, or  
4 develop the property securing the loan. This provision does not  
5 prohibit a broker from conducting the following transactions if, in  
6 either case, the disclosure statement furnished by the broker  
7 pursuant to subdivision (f) discloses the interest of the broker or  
8 affiliate in the transaction and the circumstances under which the  
9 broker or affiliate acquired the interest:

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

14 (2) A transaction in which the broker or an affiliate of the broker  
15 is reselling from inventory property acquired by the broker pursuant  
16 to a foreclosure under, or sale pursuant to, a deed of trust securing  
17 a note for which the broker is the servicing agent or that the broker  
18 sold to the holder or holders.

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

24  
25 Transaction Identifier: \_\_\_\_\_

26 Name of Purchaser: \_\_\_\_\_ Date: \_\_\_\_\_

27 Check either one of the following, if true:

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

30  
31 (–) My investment in the transaction does not exceed 10% of my adjusted  
32 gross income for federal income tax purposes for my last tax year or, in  
33 the alternative, as estimated for the current year.

34 \_\_\_\_\_  
35 \_\_\_\_\_ Signature \_\_\_\_\_

36  
37 (2) The number of offerees shall not be considered for the  
38 purposes of this section.

39 (3) Spouses and their dependents, and an individual and his or  
40 her dependents, shall be counted as one person.

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

11    ~~(5) The "institutional investors" enumerated in subdivision (i)~~  
12    ~~of Section 25102 or subdivision (c) of Section 25104 of the~~  
13    ~~Corporations Code, or in a rule adopted pursuant thereto, shall not~~  
14    ~~be counted.~~

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

19    ~~(g) The notes or interests of the purchasers shall be identical in~~  
20    ~~their underlying terms, including the right to direct or require~~  
21    ~~foreclosure, rights to and rate of interest, and other incidents of~~  
22    ~~being a lender, and the sale to each purchaser pursuant to this~~  
23    ~~section shall be upon the same terms, subject to adjustment for the~~  
24    ~~face or principal amount or percentage interest purchased and for~~  
25    ~~interest earned or accrued. This subdivision does not preclude~~  
26    ~~different selling prices for interests to the extent that these~~  
27    ~~differences are reasonably related to changes in the market value~~  
28    ~~of the loan occurring between the sales of these interests. The~~  
29    ~~interest of each purchaser shall be recorded pursuant to~~  
30    ~~subdivisions (a) to (e), inclusive, of Section 10234.~~

31    ~~(h) (1) Except as provided in paragraph (2), the aggregate~~  
32    ~~principal amount of the notes or interests sold, together with the~~  
33    ~~unpaid principal amount of any encumbrances upon the real~~  
34    ~~property senior thereto, shall not exceed the following percentages~~  
35    ~~of the current market value of each parcel of the real property, as~~  
36    ~~determined in writing by the broker or appraiser pursuant to Section~~  
37    ~~10232.6, plus the amount for which the payment of principal and~~  
38    ~~interest in excess of the percentage of current market value is~~  
39    ~~insured for the benefit of the holders of the notes or interests by~~

1 an insurer admitted to do business in this state by the Insurance  
 2 Commissioner:

3		
4	(A)	Single-family residence, owner occupied ..... 80%
5	(B)	Single-family residence, not owner-occupied ..... 75%
6	(C)	Commercial and income-producing properties ..... 65%
7	(D)	Single-family residentially-zoned lot or parcel which has
8		installed offsite improvements including drainage, curbs, —
9		gutters, sidewalks, paved roads, and utilities as mandated —
10		by the political subdivision having jurisdiction over the lot —
11		or parcel ..... 65%
12	(E)	Land that has been zoned for (and if required, approved for —
13		subdivision as) commercial or residential development ..... 50%
14	(F)	Other real property ..... 35%
15		

16 (2) The percentage amounts specified in paragraph (1) may be  
 17 exceeded when and to the extent that the broker determines that  
 18 the encumbrance of the property in excess of these percentages is  
 19 reasonable and prudent considering all relevant factors pertaining  
 20 to the real property. However, in no event shall the aggregate  
 21 principal amount of the notes or interests sold, together with the  
 22 unpaid principal amount of any encumbrances upon the property  
 23 senior thereto, exceed 80 percent of the current fair market value  
 24 of improved real property or 50 percent of the current fair market  
 25 value of unimproved real property, except in the case of a  
 26 single-family zoned lot or parcel as defined in paragraph (1), which  
 27 shall not exceed 65 percent of the current fair market value of that  
 28 lot or parcel, plus the amount insured as specified in paragraph  
 29 (1). A written statement shall be prepared by the broker that sets  
 30 forth the material considerations and facts that the broker relies  
 31 upon for his or her determination, which shall be retained as a part  
 32 of the broker's record of the transaction. Either a copy of the  
 33 statement or the information contained therein shall be included  
 34 in the disclosures required pursuant to subdivision (l).

35 (3) A copy of the appraisal or the broker's evaluation, for each  
 36 parcel of real property securing the notes or interests, shall be  
 37 delivered to each purchaser. The broker shall advise purchasers  
 38 of their right to receive a copy. For purposes of this paragraph,  
 39 "appraisal" means a written estimate of value based upon the  
 40 assembling, analyzing, and reconciling of facts and value indicators

1 for the real property in question. A broker shall not purport to make  
2 an appraisal unless the person so employed is qualified on the basis  
3 of special training, preparation, or experience.

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

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

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

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

14 (D) The disbursement draws from the escrow account are based  
15 on verification from an independent qualified person who certifies  
16 that the work completed to date meets the related codes and  
17 standards and that the draws were made in accordance with the  
18 construction contract and draw schedule. For purposes of this  
19 subparagraph, “independent qualified person” means a person who  
20 is not an employee, agent, or affiliate of the broker and who is a  
21 licensed architect, general contractor, structural engineer, or active  
22 local government building inspector acting in his or her official  
23 capacity.

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

27 (F) In addition to the transaction documentation required by  
28 subdivision (i), the documentation shall include a detailed  
29 description of actions that may be taken in the event of a failure  
30 to complete the project, whether that failure is due to default,  
31 insufficiency of funds, or other causes.

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

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

1     ~~(i) The documentation of the transaction shall require that (1)~~  
2     ~~a default upon any interest or note is a default upon all interests~~  
3     ~~or notes and (2) the holders of more than 50 percent of the recorded~~  
4     ~~beneficial interests of the notes or interests may govern the actions~~  
5     ~~to be taken on behalf of all holders in accordance with Section~~  
6     ~~2941.9 of the Civil Code in the event of default or foreclosure for~~  
7     ~~matters that require direction or approval of the holders, including~~  
8     ~~designation of the broker, servicing agent, or other person acting~~  
9     ~~on their behalf, and the sale, encumbrance, or lease of real property~~  
10    ~~owned by the holders resulting from foreclosure or receipt of a~~  
11    ~~deed in lieu of foreclosure. The terms called for by this subdivision~~  
12    ~~may be included in the deed of trust, in the assignment of interests,~~  
13    ~~or in any other documentation as is necessary or appropriate to~~  
14    ~~make them binding on the parties.~~

15    ~~(j) (1) The broker shall not accept any purchase or loan funds~~  
16    ~~or other consideration from a prospective lender or purchaser, or~~  
17    ~~directly or indirectly cause the funds or other consideration to be~~  
18    ~~deposited in an escrow or trust account, except as to a specific loan~~  
19    ~~or note secured by a deed of trust that the broker owns, is~~  
20    ~~authorized to negotiate, or is unconditionally obligated to buy.~~

21    ~~(2) All funds received by the broker from the purchasers or~~  
22    ~~lenders shall be handled in accordance with Section 10145 for~~  
23    ~~disbursement to the persons thereto entitled upon recordation of~~  
24    ~~the interests of the purchasers or lenders in the note and deed of~~  
25    ~~trust. No provision of this article shall be construed as modifying~~  
26    ~~or superseding applicable law regulating the escrow holder in any~~  
27    ~~transaction or the handling of the escrow account.~~

28    ~~(3) The books and records of the broker or servicing agent, or~~  
29    ~~both, shall be maintained in a manner that readily identifies~~  
30    ~~transactions under this article and the receipt and disbursement of~~  
31    ~~funds in connection with these transactions.~~

32    ~~(4) If required by paragraph (3) of subdivision (k), the review~~  
33    ~~by the independent certified public accountant shall include a~~  
34    ~~sample of transactions, as reflected in the records of the trust~~  
35    ~~account required pursuant to paragraph (1) of subdivision (k), and~~  
36    ~~the bank statements and supporting documents. These documents~~  
37    ~~shall be reviewed for compliance with this article with respect to~~  
38    ~~the handling and distribution of funds. The sample shall be selected~~  
39    ~~at random by the accountant from all these transactions and shall~~  
40    ~~consist of the following: (A) three sales made or 5 percent of the~~



1 sales made pursuant to this article during the period for which the  
2 examination is conducted, whichever is greater, and (B) 10  
3 payments processed or 2 percent of payments processed under this  
4 article during the period for which the examination is conducted,  
5 whichever is greater.

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

25 (6) Within 30 days of the close of the period for which the report  
26 is made, or within any additional time as the commissioner may  
27 in writing allow in a particular case, the accountant shall forward  
28 to the broker or servicing agent, as the case may be, and to the  
29 commissioner, the report of the accountant, stating that the  
30 inspection was performed in accordance with this section, listing  
31 the sales and the payments examined, specifying the nature of the  
32 deficiencies, if any, noted by the accountant with respect to each  
33 sale or payment, together with any further information as the  
34 accountant may wish to include, such as corrective steps taken  
35 with respect to any deficiency so noted, or stating that no  
36 deficiencies were observed. If the broker meets the threshold  
37 criteria of Section 10232, the report of the accountant shall be  
38 submitted as part of the quarterly reports required under Section  
39 10232.25.

1     ~~(k) The notes or interests shall be sold subject to a written~~  
2 ~~agreement that obligates a licensed real estate broker, or a person~~  
3 ~~exempted from the licensing requirement for real estate brokers~~  
4 ~~under this chapter, to act as agent for the purchasers or lenders to~~  
5 ~~service the note or notes and deed of trust, including the receipt~~  
6 ~~and transmission of payments and the institution of foreclosure~~  
7 ~~proceedings in the event of a default. A copy of this servicing~~  
8 ~~agreement shall be delivered to each purchaser. The broker shall~~  
9 ~~offer to the lenders or purchasers the services of the broker or one~~  
10 ~~or more affiliates of the broker, or both, as servicing agent for each~~  
11 ~~transaction conducted pursuant to this article. The agreement shall~~  
12 ~~require all of the following:~~

13     ~~(1) (A) That payments received on the note or notes be~~  
14 ~~deposited immediately to a trust account maintained in accordance~~  
15 ~~with this section and with the provisions for trust accounts of~~  
16 ~~licensed real estate brokers contained in Section 10145 and Article~~  
17 ~~15 (commencing with Section 2830.1) of Chapter 6 of Title 10 of~~  
18 ~~the California Code of Regulations.~~

19     ~~(B) That payments deposited pursuant to subparagraph (A) shall~~  
20 ~~not be commingled with the assets of the servicing agent or used~~  
21 ~~for any transaction other than the transaction for which the funds~~  
22 ~~are received.~~

23     ~~(2) That payments received on the note or notes shall be~~  
24 ~~transmitted to the purchasers or lenders pro rata according to their~~  
25 ~~respective interests within 25 days after receipt thereof by the~~  
26 ~~agent. If the source for the payment is not the maker of the note,~~  
27 ~~the agent shall inform the purchasers or lenders in writing of the~~  
28 ~~source for payment. A broker or servicing agent who transmits to~~  
29 ~~the purchaser or lenders the broker's or servicing agent's own~~  
30 ~~funds to cover payments due from the borrower but unpaid as a~~  
31 ~~result of a dishonored check may recover the amount of the~~  
32 ~~advances from the trust fund when the past due payment is~~  
33 ~~received. However, this article does not authorize the broker,~~  
34 ~~servicing agent, or any other person to issue, or to engage in any~~  
35 ~~practice constituting, any guarantee or to engage in the practice of~~  
36 ~~advancing payments on behalf of the borrower.~~

37     ~~(3) If the broker or person who is or becomes the servicing agent~~  
38 ~~for notes or interests sold pursuant to this article upon which the~~  
39 ~~payments due during any period of three consecutive months in~~  
40 ~~the aggregate exceed one hundred twenty-five thousand dollars~~

1 (~~\$125,000~~) or the number of persons entitled to the payments  
2 exceeds 120, the trust account or accounts of that broker or affiliate  
3 shall be inspected by an independent certified public accountant  
4 at no less than three-month intervals during the time the volume  
5 is maintained. Within 30 days after the close of the period for  
6 which the review is made, the report of the accountant shall be  
7 forwarded as provided in paragraph (6) of subdivision (j). If the  
8 broker is required to file an annual report pursuant to subdivision  
9 (o) or pursuant to Section 10232.2, the quarterly report pursuant  
10 to this subdivision need not be filed for the last quarter of the year  
11 for which the annual report is made. For the purposes of this  
12 subdivision, an affiliate of a broker is any person controlled by,  
13 controlling, or under common control with the broker.

14 (4) ~~Unless the servicing agent will receive notice pursuant to~~  
15 ~~Section 2924b of the Civil Code, the servicing agent shall file a~~  
16 ~~written request for notice of default upon any prior encumbrances~~  
17 ~~and promptly notify the purchasers or lenders of any default on~~  
18 ~~the prior encumbrances or on the note or notes subject to the~~  
19 ~~servicing agreement.~~

20 (5) ~~The servicing agent shall promptly forward copies of the~~  
21 ~~following to each purchaser or lender:~~

22 (A) ~~Any notice of trustee sale filed on behalf of the purchasers~~  
23 ~~or lenders.~~

24 (B) ~~Any request for reconveyance of the deed of trust received~~  
25 ~~on behalf of the purchasers or lenders.~~

26 (l) ~~The broker shall disclose in writing to each purchaser or~~  
27 ~~lender the material facts concerning the transaction on a disclosure~~  
28 ~~form adopted or approved by the commissioner pursuant to Section~~  
29 ~~10232.5, subject to the following:~~

30 (1) ~~The disclosure form shall include a description of the terms~~  
31 ~~upon which the note and deed of trust are being sold, including~~  
32 ~~the terms of the undivided interests being offered therein, including~~  
33 ~~the following:~~

34 (A) ~~In the case of the sale of an existing note:~~

35 (i) ~~The aggregate sale price of the note.~~

36 (ii) ~~The percent of the premium over or discount from the~~  
37 ~~principal balance plus accrued but unpaid interest.~~

38 (iii) ~~The effective rate of return to the purchasers if the note is~~  
39 ~~paid according to its terms.~~

- 1     ~~(iv) The name and address of the escrow holder for the~~  
2     ~~transaction.~~
- 3     ~~(v) A description of, and the estimated amount of, each cost~~  
4     ~~payable by the seller in connection with the sale and a description~~  
5     ~~of, and the estimated amount of, each cost payable by the~~  
6     ~~purchasers in connection with the sale.~~
- 7     ~~(B) In the case of the origination of a note:~~
- 8     ~~(i) The name and address of the escrow holder for the~~  
9     ~~transaction.~~
- 10    ~~(ii) The anticipated closing date.~~
- 11    ~~(iii) A description of, and the estimated amount of, each cost~~  
12    ~~payable by the borrower in connection with the loan and a~~  
13    ~~description of, and the estimated amount of, each cost payable by~~  
14    ~~the lenders in connection with the loan.~~
- 15    ~~(C) In the case of a transaction involving a note or interest~~  
16    ~~secured by more than one parcel of real property, in addition to~~  
17    ~~the requirements of subparagraphs (A) and (B):~~
- 18    ~~(i) The address, description, and estimated fair market value of~~  
19    ~~each property securing the loan.~~
- 20    ~~(ii) The amount of the available equity in each property securing~~  
21    ~~the loan after the loan amount to be apportioned to each property~~  
22    ~~is assigned.~~
- 23    ~~(iii) The loan to value percentage for each property after the~~  
24    ~~loan amount to be apportioned to each property is assigned pursuant~~  
25    ~~to subdivision (h).~~
- 26    ~~(2) A copy of the written statement or information contained~~  
27    ~~therein, as required by paragraph (2) of subdivision (h), shall be~~  
28    ~~included in the disclosure form.~~
- 29    ~~(3) Any interest of the broker or affiliate in the transaction, as~~  
30    ~~described in subdivision (c), shall be included with the disclosure~~  
31    ~~form.~~
- 32    ~~(4) When the particular circumstances of a transaction make~~  
33    ~~information not specified in the disclosure form material or~~  
34    ~~essential to keep the information provided in the form from being~~  
35    ~~misleading, and the other information is known to the broker, the~~  
36    ~~other information shall also be provided by the broker.~~
- 37    ~~(5) If more than one parcel of real property secures the notes or~~  
38    ~~interests, the disclosure form shall also fully disclose any risks to~~  
39    ~~investors associated with securing the notes or interests with~~  
40    ~~multiple parcels of real property.~~

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

4     ~~(n) No agreement in connection with a transaction covered by~~  
5     ~~this article shall grant to the real estate broker, the servicing agent,~~  
6     ~~or any affiliate of the broker or agent the option or election to~~  
7     ~~acquire the interests of the purchasers or lenders or to acquire the~~  
8     ~~real property securing the interests. This subdivision shall not~~  
9     ~~prohibit the broker or affiliate from acquiring the interests, with~~  
10    ~~the consent of the purchasers or lenders whose interests are being~~  
11    ~~purchased, or the property, with the written consent of the~~  
12    ~~purchasers or lenders, if the consent is given at the time of the~~  
13    ~~acquisition.~~

14    ~~(o) Each broker who conducts transactions under this article,~~  
15    ~~or broker or person who becomes the servicing agent for notes or~~  
16    ~~interest sold pursuant to this article, who meets the criteria of~~  
17    ~~paragraph (3) of subdivision (k) shall file with the commissioner~~  
18    ~~an annual report of a review of its trust account. The report shall~~  
19    ~~be prepared and filed in accordance with subdivision (a) of Section~~  
20    ~~10232.2 and the rules and procedures thereunder of the~~  
21    ~~commissioner. That report shall cover the broker's transactions~~  
22    ~~under this article and, if the broker also meets the threshold criteria~~  
23    ~~set forth in Section 10232, the broker's transactions subject to that~~  
24    ~~section shall be included as well.~~

25    ~~(p) Each broker conducting transactions pursuant to this article,~~  
26    ~~or broker or person who becomes the servicing agent for notes or~~  
27    ~~interest sold pursuant to this article, who meets the criteria of~~  
28    ~~paragraph (3) of subdivision (k) shall file with the commissioner~~  
29    ~~a report of the transactions that is prepared in accordance with~~  
30    ~~subdivision (c) of Section 10232.2. If the broker also meets the~~  
31    ~~threshold criteria of Section 10232, the report shall include the~~  
32    ~~transactions subject to that section as well. This report shall be~~  
33    ~~confidential pursuant to subdivision (f) of Section 10232.2.~~

34    ~~SEC. 2. Section 17537.1 of the Business and Professions Code~~  
35    ~~is amended to read:~~

36    ~~17537.1. (a) It is unlawful for any person, or an employee,~~  
37    ~~agent, or independent contractor employed or authorized by that~~  
38    ~~person, by any means, as part of an advertising plan or program,~~  
39    ~~to offer any incentive as an inducement to the recipient to visit a~~  
40    ~~location, attend a sales presentation, or contact a sales agent in~~

1 person, by telephone, or by mail, unless the offer clearly and  
2 conspicuously discloses in writing, in readily understandable  
3 language, all of the information required in paragraphs (1) and (2).  
4 If the offer is not initially made in writing, the required disclosures  
5 shall be received by the recipient in writing prior to any scheduled  
6 visit to a location, sales presentation, or contact with a sales agent.  
7 For purposes of this section, the term “incentive” means any item  
8 or service of value, including, but not limited to, any prize, gift,  
9 money, or other tangible property.

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

12 (A) The name and street address of the owner of the real or  
13 personal property or the provider of the services which are the  
14 subject of the visit, sales presentation, or contact with a sales agent.  
15 If the offer is made by an agent or independent contractor employed  
16 or authorized by the owner or provider, or is made under a name  
17 other than the true name of the owner or provider, the name of the  
18 owner or provider shall be more prominently and conspicuously  
19 displayed than the name of the agent, independent contractor, or  
20 other name.

21 (B) A general description of the business of the owner or  
22 provider identified pursuant to subparagraph (A), and the purpose  
23 of any requested visit, sales presentation, or contact with a sales  
24 agent, which shall include a general description of the real or  
25 personal property or services which are the subject of the sales  
26 presentation and a clear statement, if applicable, that there will be  
27 a sales presentation and the approximate duration of the visit and  
28 sales presentation.

29 (C) If the recipient is not assured of receiving any particular  
30 incentive, a statement of the odds of receiving each incentive  
31 offered or, in the alternative, a clear statement describing the  
32 location in the offer where the odds can be found. The odds shall  
33 be stated in whole Arabic numbers in a format such as: “1 chance  
34 in 100,000” or “1:100,000.” The odds and, where applicable, the  
35 alternative statement describing their location, shall be printed in  
36 a type size that is at least equal to that used for the standard text  
37 on the front (or first) page of the offer.

38 (D) A clear statement, if applicable, that the offer is subject to  
39 specific restrictions, qualifications, and conditions and a statement  
40 describing the location in the offer where the restrictions,

1 qualifications, and conditions may be found. Both statements shall  
2 be printed in a type size that is at least equal to that used for the  
3 standard text on the front (or first) page of the offer.

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

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

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

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

16 (ii) Any other conditions, such as a minimum age qualification,  
17 a financial qualification, or a requirement that if the recipient is  
18 married both spouses must be present in order to receive the  
19 incentive. Any financial qualifications shall be stated with a  
20 specificity sufficient to enable the recipient to reasonably determine  
21 his or her eligibility.

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

26 (D) A statement that a recipient who receives an offered  
27 incentive may request and will receive evidence showing that the  
28 incentive provided matches the incentive randomly or otherwise  
29 selected for distribution to that recipient.

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

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

38 (c) It is unlawful for any person making an offer subject to  
39 subdivision (a), or any employee, agent, or independent contractor  
40 employed or authorized by that person, to fail to provide any

1 offered incentive which any recipient who has responded to the  
2 offer in the manner specified therein, who has performed the  
3 requirements disclosed therein, and who has met the qualifications  
4 described therein, is entitled to receive, unless the offered incentive  
5 is not reasonably available and the offer discloses the reservation  
6 of a right to provide a raincheck, or a like or substitute incentive,  
7 if the offered incentive is unavailable.

8 (d) If the person making an offer subject to subdivision (a) is  
9 unable to provide an offered incentive because of limitations of  
10 supply, quantity, or quality that were not reasonably foreseeable  
11 or controllable by the person making the offer, the person making  
12 the offer shall inform the recipient of the recipient's right to receive  
13 a raincheck for the incentive offered, unless the person making  
14 the offer knows or has reasonable basis for knowing that the  
15 incentive will not be reasonably available and shall inform the  
16 recipient of the recipient's right to at least one of the following  
17 additional options:

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

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

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

24 (e) If a raincheck is provided, the person making an offer subject  
25 to subdivision (a) shall, within a reasonable time, and in no event  
26 later than 80 days, deliver the agreed incentive to the recipient's  
27 address without additional cost or obligation to the recipient, unless  
28 the incentive for which the raincheck is provided remains  
29 unavailable because of limitations of supply, quantity, or quality  
30 not reasonably foreseeable or controllable by the person making  
31 the offer. In that case, the person making the offer shall, not later  
32 than 30 days after the expiration of the 80 days, deliver a like  
33 incentive of equal or greater retail value or, if an incentive is not  
34 reasonably available to the person making the offer, a substitute  
35 incentive of equal or greater retail value.

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



1     ~~(g) It is unlawful for any person making an offer subject to~~  
2     ~~subdivision (a), or any employee, agent, or independent contractor~~  
3     ~~employed or authorized by that person, to:~~  
4     ~~(1) Use any printing styles, graphics, layouts, text, colors, or~~  
5     ~~formats on envelopes or on the offer that imply, create an~~  
6     ~~appearance, or would lead a reasonable person to believe, that the~~  
7     ~~offer originates from or is issued by or on behalf of a government~~  
8     ~~or public agency, public utility, public organization, insurance~~  
9     ~~company, credit reporting agency, bill collecting company, or law~~  
10    ~~firm, unless the same is true.~~  
11    ~~(2) Misrepresent the size, quantity, identity, value, or qualities~~  
12    ~~of any incentive.~~  
13    ~~(3) Misrepresent in any manner the odds of receiving any~~  
14    ~~particular incentive.~~  
15    ~~(4) Represent directly or by implication that the number of~~  
16    ~~participants has been significantly limited or that any person has~~  
17    ~~been selected to receive a particular incentive unless that is the~~  
18    ~~fact.~~  
19    ~~(5) Label any offer a notice of termination or notice of~~  
20    ~~cancellation.~~  
21    ~~(6) Misrepresent, in any manner, the offer, plan, or program or~~  
22    ~~the affiliation, connection, association, or contractual relationship~~  
23    ~~between the person making the offer and the owner or provider,~~  
24    ~~if they are not the same.~~  
25    ~~(h) If the major incentives are awarded or given at random, by~~  
26    ~~the assignment of a number to the incentives, that number shall~~  
27    ~~be actually assigned by the party contractually responsible for~~  
28    ~~doing so. The person making an offer subject to subdivision (a)~~  
29    ~~hereof, or the agent, employee, or independent contractor employed~~  
30    ~~or authorized by that person, if any, shall maintain, for a period of~~  
31    ~~one year after the date the offer is made, the records that show that~~  
32    ~~the winning numbers or opportunity to receive the major incentives~~  
33    ~~have been deposited in the mail or otherwise made available to~~  
34    ~~recipients in accordance with the odds statement provided pursuant~~  
35    ~~to subparagraph (C) of paragraph (1) of subdivision (a) hereof.~~  
36    ~~The records shall be made available to the Attorney General within~~  
37    ~~30 days after written request therefor. Postal receipt records,~~  
38    ~~affidavits of mailing, or a list of winners or recipients of the major~~  
39    ~~incentives shall be deemed to satisfy the requirements of this~~  
40    ~~section.~~

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

2     50. Any necessary force may be used to protect from wrongful  
3 injury the person or property of oneself, or of a spouse, child,  
4 parent, or other relative, or member of one's family, or of a ward,  
5 servant, master, or guest.

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

7     51.3.—(a) The Legislature finds and declares that this section  
8 is essential to establish and preserve specially designed accessible  
9 housing for senior citizens. There are senior citizens who need  
10 special living environments and services, and find that there is an  
11 inadequate supply of this type of housing in the state.

12     (b) For the purposes of this section, the following definitions  
13 apply:

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

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

19     (A) Was residing with the qualifying resident or senior citizen  
20 prior to the death, hospitalization, or other prolonged absence of,  
21 or the dissolution of marriage with, the qualifying resident or senior  
22 citizen.

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

26     (3) “Qualified permanent resident” also means a disabled person  
27 or person with a disabling illness or injury who is a child or  
28 grandchild of the senior citizen or a qualified permanent resident  
29 as defined in paragraph (2) who needs to live with the senior citizen  
30 or qualified permanent resident because of the disabling condition,  
31 illness, or injury. For purposes of this section, “disabled” means  
32 a person who has a disability as defined in subdivision (b) of  
33 Section 54. A “disabling injury or illness” means an illness or  
34 injury which results in a condition meeting the definition of  
35 disability set forth in subdivision (b) of Section 54.

36     (A) For any person who is a qualified permanent resident under  
37 this paragraph whose disabling condition ends, the owner, board  
38 of directors, or other governing body may require the formerly  
39 disabled resident to cease residing in the development upon receipt  
40 of six months' written notice; provided, however, that the owner,

1 board of directors, or other governing body may allow the person  
2 to remain a resident for up to one year after the disabling condition  
3 ends:

4 (B) The owner, board of directors, or other governing body of  
5 the senior citizen housing development may take action to prohibit  
6 or terminate occupancy by a person who is a qualified permanent  
7 resident under this paragraph if the owner, board of directors, or  
8 other governing body finds, based on credible and objective  
9 evidence, that the person is likely to pose a significant threat to  
10 the health or safety of others that cannot be ameliorated by means  
11 of a reasonable accommodation; provided, however, that the action  
12 to prohibit or terminate the occupancy may be taken only after  
13 doing both of the following:

14 (i) Providing reasonable notice to and an opportunity to be heard  
15 for the disabled person whose occupancy is being challenged, and  
16 reasonable notice to the coresident parent or grandparent of that  
17 person:

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

23 The affected persons shall be entitled to have present at the  
24 hearing an attorney or any other person authorized by them to  
25 speak on their behalf or to assist them in the matter:

26 (4) “Senior citizen housing development” means a residential  
27 development developed, substantially rehabilitated, or substantially  
28 renovated for, senior citizens that has at least 35 dwelling units.  
29 Any senior citizen housing development which is required to obtain  
30 a public report under Section 11010 of the Business and Professions  
31 Code and which submits its application for a public report after  
32 July 1, 2001, shall be required to have been issued a public report  
33 as a senior citizen housing development under Section 11010.05  
34 of the Business and Professions Code. No housing development  
35 constructed prior to January 1, 1985, shall fail to qualify as a senior  
36 citizen housing development because it was not originally  
37 developed or put to use for occupancy by senior citizens:

38 (5) “Dwelling unit” or “housing” means any residential  
39 accommodation other than a mobilehome:

1     ~~(6) “Cohabitant” refers to persons who live together as spouses~~  
2     ~~or persons who are domestic partners within the meaning of Section~~  
3     ~~297 of the Family Code.~~

4     ~~(7) “Permitted health care resident” means a person hired to~~  
5     ~~provide live-in, long-term, or terminal health care to a qualifying~~  
6     ~~resident, or a family member of the qualifying resident providing~~  
7     ~~that care. For the purposes of this section, the care provided by a~~  
8     ~~permitted health care resident must be substantial in nature and~~  
9     ~~must provide either assistance with necessary daily activities or~~  
10    ~~medical treatment, or both.~~

11    ~~A permitted health care resident shall be entitled to continue his~~  
12    ~~or her occupancy, residency, or use of the dwelling unit as a~~  
13    ~~permitted resident in the absence of the senior citizen from the~~  
14    ~~dwelling unit only if both of the following are applicable:~~

15    ~~(A) The senior citizen became absent from the dwelling due to~~  
16    ~~hospitalization or other necessary medical treatment and expects~~  
17    ~~to return to his or her residence within 90 days from the date the~~  
18    ~~absence began.~~

19    ~~(B) The absent senior citizen or an authorized person acting for~~  
20    ~~the senior citizen submits a written request to the owner, board of~~  
21    ~~directors, or governing board stating that the senior citizen desires~~  
22    ~~that the permitted health care resident be allowed to remain in~~  
23    ~~order to be present when the senior citizen returns to reside in the~~  
24    ~~development.~~

25    ~~Upon written request by the senior citizen or an authorized~~  
26    ~~person acting for the senior citizen, the owner, board of directors,~~  
27    ~~or governing board shall have the discretion to allow a permitted~~  
28    ~~health care resident to remain for a time period longer than 90 days~~  
29    ~~from the date that the senior citizen’s absence began, if it appears~~  
30    ~~that the senior citizen will return within a period of time not to~~  
31    ~~exceed an additional 90 days.~~

32    ~~(c) The covenants, conditions, and restrictions and other~~  
33    ~~documents or written policy shall set forth the limitations on~~  
34    ~~occupancy, residency, or use on the basis of age. Any such~~  
35    ~~limitation shall not be more exclusive than to require that one~~  
36    ~~person in residence in each dwelling unit may be required to be a~~  
37    ~~senior citizen and that each other resident in the same dwelling~~  
38    ~~unit may be required to be a qualified permanent resident, a~~  
39    ~~permitted health care resident, or a person under 55 years of age~~  
40    ~~whose occupancy is permitted under subdivision (h) of this section~~

1 or under subdivision (b) of Section 51.4. That limitation may be  
2 less exclusive, but shall at least require that the persons  
3 commencing any occupancy of a dwelling unit include a senior  
4 citizen who intends to reside in the unit as his or her primary  
5 residence on a permanent basis. The application of the rules set  
6 forth in this subdivision regarding limitations on occupancy may  
7 result in less than all of the dwellings being actually occupied by  
8 a senior citizen.

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

15 (e) Upon the death or dissolution of marriage, or upon  
16 hospitalization, or other prolonged absence of the qualifying  
17 resident, any qualified permanent resident shall be entitled to  
18 continue his or her occupancy, residency, or use of the dwelling  
19 unit as a permitted resident. This subdivision shall not apply to a  
20 permitted health care resident.

21 (f) The condominium, stock cooperative, limited-equity housing  
22 cooperative, planned development, or multiple-family residential  
23 rental property shall have been developed for, and initially been  
24 put to use as, housing for senior citizens, or shall have been  
25 substantially rehabilitated or renovated for, and immediately  
26 afterward put to use as, housing for senior citizens, as provided in  
27 this section; provided, however, that no housing development  
28 constructed prior to January 1, 1985, shall fail to qualify as a senior  
29 citizen housing development because it was not originally  
30 developed for or originally put to use for occupancy by senior  
31 citizens.

32 (g) The covenants, conditions, and restrictions or other  
33 documents or written policies applicable to any condominium,  
34 stock cooperative, limited-equity housing cooperative, planned  
35 development, or multiple-family residential property that contained  
36 age restrictions on January 1, 1984, shall be enforceable only to  
37 the extent permitted by this section, notwithstanding lower age  
38 restrictions contained in those documents or policies.

39 (h) Any person who has the right to reside in, occupy, or use  
40 the housing or an unimproved lot subject to this section on January

1 1, 1985, shall not be deprived of the right to continue that  
2 residency, occupancy, or use as the result of the enactment of this  
3 section.

4 (i) The covenants, conditions, and restrictions or other  
5 documents or written policy of the senior citizen housing  
6 development shall permit the occupancy of a dwelling unit by a  
7 permitted health care resident during any period that the person is  
8 actually providing live-in, long-term, or hospice health care to a  
9 qualifying resident for compensation. For purposes of this  
10 subdivision, the term “for compensation” shall include provisions  
11 of lodging and food in exchange for care.

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

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

15 51.11. (a) The Legislature finds and declares that this section  
16 is essential to establish and preserve housing for senior citizens.  
17 There are senior citizens who need special living environments,  
18 and find that there is an inadequate supply of this type of housing  
19 in the state.

20 (b) For the purposes of this section, the following definitions  
21 apply:

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

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

27 (A) Was residing with the qualifying resident or senior citizen  
28 prior to the death, hospitalization, or other prolonged absence of,  
29 or the dissolution of marriage with, the qualifying resident or senior  
30 citizen.

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

34 (3) “Qualified permanent resident” also means a disabled person  
35 or person with a disabling illness or injury who is a child or  
36 grandchild of the senior citizen or a qualified permanent resident  
37 as defined in paragraph (2) who needs to live with the senior citizen  
38 or qualified permanent resident because of the disabling condition,  
39 illness, or injury. For purposes of this section, “disabled” means  
40 a person who has a disability as defined in subdivision (b) of

1 ~~Section 54. A “disabling injury or illness” means an illness or~~  
2 ~~injury which results in a condition meeting the definition of~~  
3 ~~disability set forth in subdivision (b) of Section 54.~~

4 ~~(A) For any person who is a qualified permanent resident under~~  
5 ~~paragraph (3) whose disabling condition ends, the owner, board~~  
6 ~~of directors, or other governing body may require the formerly~~  
7 ~~disabled resident to cease residing in the development upon receipt~~  
8 ~~of six months’ written notice; provided, however, that the owner,~~  
9 ~~board of directors, or other governing body may allow the person~~  
10 ~~to remain a resident for up to one year, after the disabling condition~~  
11 ~~ends.~~

12 ~~(B) The owner, board of directors, or other governing body of~~  
13 ~~the senior citizen housing development may take action to prohibit~~  
14 ~~or terminate occupancy by a person who is a qualified permanent~~  
15 ~~resident under paragraph (3) if the owner, board of directors, or~~  
16 ~~other governing body finds, based on credible and objective~~  
17 ~~evidence, that the person is likely to pose a significant threat to~~  
18 ~~the health or safety of others that cannot be ameliorated by means~~  
19 ~~of a reasonable accommodation; provided, however, that action~~  
20 ~~to prohibit or terminate the occupancy may be taken only after~~  
21 ~~doing both of the following:~~

22 ~~(i) Providing reasonable notice to and an opportunity to be heard~~  
23 ~~for the disabled person whose occupancy is being challenged, and~~  
24 ~~reasonable notice to the coresident parent or grandparent of that~~  
25 ~~person.~~

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

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

34 ~~(4) “Senior citizen housing development” means a residential~~  
35 ~~development developed with more than 20 units as a senior~~  
36 ~~community by its developer and zoned as a senior community by~~  
37 ~~a local governmental entity, or characterized as a senior community~~  
38 ~~in its governing documents, as these are defined in Section 4150;~~  
39 ~~or qualified as a senior community under the federal Fair Housing~~  
40 ~~Amendments Act of 1988, as amended. Any senior citizen housing~~

1 development which is required to obtain a public report under  
2 Section 11010 of the Business and Professions Code and which  
3 submits its application for a public report after July 1, 2001, shall  
4 be required to have been issued a public report as a senior citizen  
5 housing development under Section 11010.05 of the Business and  
6 Professions Code.

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

9 (6) “Cohabitant” refers to persons who live together as spouses  
10 or persons who are domestic partners within the meaning of Section  
11 297 of the Family Code.

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

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

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

27 (B) The absent senior citizen or an authorized person acting for  
28 the senior citizen submits a written request to the owner, board of  
29 directors, or governing board stating that the senior citizen desires  
30 that the permitted health care resident be allowed to remain in  
31 order to be present when the senior citizen returns to reside in the  
32 development.

33 Upon written request by the senior citizen or an authorized  
34 person acting for the senior citizen, the owner, board of directors,  
35 or governing board shall have the discretion to allow a permitted  
36 health care resident to remain for a time period longer than 90 days  
37 from the date that the senior citizen’s absence began, if it appears  
38 that the senior citizen will return within a period of time not to  
39 exceed an additional 90 days.



1     ~~(e) The covenants, conditions, and restrictions and other~~  
2 ~~documents or written policy shall set forth the limitations on~~  
3 ~~occupancy, residency, or use on the basis of age. Any limitation~~  
4 ~~shall not be more exclusive than to require that one person in~~  
5 ~~residence in each dwelling unit may be required to be a senior~~  
6 ~~citizen and that each other resident in the same dwelling unit may~~  
7 ~~be required to be a qualified permanent resident, a permitted health~~  
8 ~~care resident, or a person under 55 years of age whose occupancy~~  
9 ~~is permitted under subdivision (g) of this section or subdivision~~  
10 ~~(b) of Section 51.12. That limitation may be less exclusive, but~~  
11 ~~shall at least require that the persons commencing any occupancy~~  
12 ~~of a dwelling unit include a senior citizen who intends to reside in~~  
13 ~~the unit as his or her primary residence on a permanent basis. The~~  
14 ~~application of the rules set forth in this subdivision regarding~~  
15 ~~limitations on occupancy may result in less than all of the dwellings~~  
16 ~~being actually occupied by a senior citizen.~~

17     ~~(d) The covenants, conditions, and restrictions or other~~  
18 ~~documents or written policy shall permit temporary residency, as~~  
19 ~~a guest of a senior citizen or qualified permanent resident, by a~~  
20 ~~person of less than 55 years of age for periods of time, not more~~  
21 ~~than 60 days in any year, that are specified in the covenants,~~  
22 ~~conditions, and restrictions or other documents or written policy.~~

23     ~~(e) Upon the death or dissolution of marriage, or upon~~  
24 ~~hospitalization, or other prolonged absence of the qualifying~~  
25 ~~resident, any qualified permanent resident shall be entitled to~~  
26 ~~continue his or her occupancy, residency, or use of the dwelling~~  
27 ~~unit as a permitted resident. This subdivision shall not apply to a~~  
28 ~~permitted health care resident.~~

29     ~~(f) The covenants, conditions, and restrictions or other~~  
30 ~~documents or written policies applicable to any condominium,~~  
31 ~~stock cooperative, limited-equity housing cooperative, planned~~  
32 ~~development, or multiple-family residential property that contained~~  
33 ~~age restrictions on January 1, 1984, shall be enforceable only to~~  
34 ~~the extent permitted by this section, notwithstanding lower age~~  
35 ~~restrictions contained in those documents or policies.~~

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

- 1     ~~(h) A housing development may qualify as a senior citizen~~  
2     ~~housing development under this section even though, as of January~~  
3     ~~1, 1997, it does not meet the definition of a senior citizen housing~~  
4     ~~development specified in subdivision (b), if the development~~  
5     ~~complies with that definition for every unit that becomes occupied~~  
6     ~~after January 1, 1997, and if the development was once within that~~  
7     ~~definition, and then became noncompliant with the definition as~~  
8     ~~the result of any one of the following:~~
- 9     ~~(1) The development was ordered by a court or a local, state,~~  
10    ~~or federal enforcement agency to allow persons other than~~  
11    ~~qualifying residents, qualified permanent residents, or permitted~~  
12    ~~health care residents to reside in the development.~~
- 13    ~~(2) The development received a notice of a pending or proposed~~  
14    ~~action in, or by, a court, or a local, state, or federal enforcement~~  
15    ~~agency, which action could have resulted in the development being~~  
16    ~~ordered by a court or a state or federal enforcement agency to allow~~  
17    ~~persons other than qualifying residents, qualified permanent~~  
18    ~~residents, or permitted health care residents to reside in the~~  
19    ~~development.~~
- 20    ~~(3) The development agreed to allow persons other than~~  
21    ~~qualifying residents, qualified permanent residents, or permitted~~  
22    ~~health care residents to reside in the development by entering into~~  
23    ~~a stipulation, conciliation agreement, or settlement agreement with~~  
24    ~~a local, state, or federal enforcement agency or with a private party~~  
25    ~~who had filed, or indicated an intent to file, a complaint against~~  
26    ~~the development with a local, state, or federal enforcement agency,~~  
27    ~~or file an action in a court.~~
- 28    ~~(4) The development allowed persons other than qualifying~~  
29    ~~residents, qualified permanent residents, or permitted health care~~  
30    ~~residents to reside in the development on the advice of counsel in~~  
31    ~~order to prevent the possibility of an action being filed by a private~~  
32    ~~party or by a local, state, or federal enforcement agency.~~
- 33    ~~(i) The covenants, conditions, and restrictions or other~~  
34    ~~documents or written policy of the senior citizen housing~~  
35    ~~development shall permit the occupancy of a dwelling unit by a~~  
36    ~~permitted health care resident during any period that the person is~~  
37    ~~actually providing live-in, long-term, or hospice health care to a~~  
38    ~~qualifying resident for compensation.~~
- 39    ~~(j) This section shall only apply to the County of Riverside.~~  
40    ~~SEC. 6. Section 682 of the Civil Code is amended to read:~~

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

2     ~~1. Of joint interest;~~

3     ~~2. Of partnership interests;~~

4     ~~3. Of interests in common;~~

5     ~~4. Of community interest of spouses.~~

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

7     ~~682.1. (a) Community property of spouses, when expressly~~  
8 ~~declared in the transfer document to be community property with~~  
9 ~~right of survivorship, and which may be accepted in writing on~~  
10 ~~the face of the document by a statement signed or initialed by the~~  
11 ~~grantees, shall, upon the death of one of the spouses, pass to the~~  
12 ~~survivor, without administration, pursuant to the terms of the~~  
13 ~~instrument, subject to the same procedures, as property held in~~  
14 ~~joint tenancy. Prior to the death of either spouse, the right of~~  
15 ~~survivorship may be terminated pursuant to the same procedures~~  
16 ~~by which a joint tenancy may be severed. Part I (commencing with~~  
17 ~~Section 5000) of Division 5 of the Probate Code and Chapter 2~~  
18 ~~(commencing with Section 13540), Chapter 3 (commencing with~~  
19 ~~Section 13550) and Chapter 3.5 (commencing with Section 13560)~~  
20 ~~of Part 2 of Division 8 of the Probate Code apply to this property.~~

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

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

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

27     ~~683. (a) A joint interest is one owned by two or more persons~~  
28 ~~in equal shares, by a title created by a single will or transfer, when~~  
29 ~~expressly declared in the will or transfer to be a joint tenancy, or~~  
30 ~~by transfer from a sole owner to himself or herself and others, or~~  
31 ~~from tenants in common or joint tenants to themselves or some of~~  
32 ~~them, or to themselves or any of them and others, or from spouses,~~  
33 ~~when holding title as community property or otherwise to~~  
34 ~~themselves or to themselves and others or to one of them and to~~  
35 ~~another or others, when expressly declared in the transfer to be a~~  
36 ~~joint tenancy, or when granted or devised to executors or trustees~~  
37 ~~as joint tenants. A joint tenancy in personal property may be created~~  
38 ~~by a written transfer, instrument, or agreement.~~

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

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

5     ~~1099. (a) As soon as practical before transfer of title of any~~  
6     ~~real property or the execution of a real property sales contract as~~  
7     ~~defined in Section 2985, the transferor, fee owner, or his agent,~~  
8     ~~shall deliver to the transferee a copy of a structural pest control~~  
9     ~~inspection report prepared pursuant to Section 8516 of the Business~~  
10    ~~and Professions Code upon which any certification in accordance~~  
11    ~~with Section 8519 of the Business and Professions Code may be~~  
12    ~~made, provided that certification or preparation of a report is a~~  
13    ~~condition of the contract effecting that transfer, or is a requirement~~  
14    ~~imposed as a condition of financing such transfer.~~

15    ~~(b) If a notice of work completed as contemplated by Section~~  
16    ~~8518 of the Business and Professions Code, indicating action by~~  
17    ~~a structural pest control licensee in response to an inspection report~~  
18    ~~delivered or to be delivered under provisions of subdivision (a),~~  
19    ~~or a certification pursuant to Section 8519 of the Business and~~  
20    ~~Professions Code, has been received by a transferor or his agent~~  
21    ~~before transfer of title or execution of a real property sales contract~~  
22    ~~as defined in Section 2985, it shall be furnished to the transferee~~  
23    ~~as soon as practical before transfer of title or the execution of such~~  
24    ~~real property sales contract.~~

25    ~~(c) Delivery to a transferee as used in this section means delivery~~  
26    ~~in person or by mail to the transferee himself or any person~~  
27    ~~authorized to act for him in the transaction or to such additional~~  
28    ~~transferees who have requested such delivery from the transferor~~  
29    ~~or his agent in writing. For the purposes of this section, delivery~~  
30    ~~to either spouse shall be deemed delivery to a transferee, unless~~  
31    ~~the contract affecting the transfer states otherwise.~~

32    ~~(d) No transfer of title of real property shall be invalidated solely~~  
33    ~~because of the failure of any person to comply with the provisions~~  
34    ~~of this section unless such failure is an act or omission which would~~  
35    ~~be a valid ground for rescission of such transfer in the absence of~~  
36    ~~this section.~~

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

38    ~~1569. Duress consists in:~~

1     ~~1. Unlawful confinement of the person of the party, or of the~~  
2     ~~spouse of such party, or of an ancestor, descendant, or adopted~~  
3     ~~child of such party or spouse;~~

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

5     ~~3. Confinement of such person, lawful in form, but fraudulently~~  
6     ~~obtained, or fraudulently made unjustly harassing or oppressive.~~

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

8     ~~3390. The following obligations cannot be specifically~~  
9     ~~enforced:~~

10    ~~1. An obligation to render personal service;~~

11    ~~2. An obligation to employ another in personal service;~~

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

14    ~~4. An agreement to procure the act or consent of the spouse of~~  
15    ~~the contracting party, or of any other third person; or,~~

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

18    ~~SEC. 12. Section 371 of the Code of Civil Procedure is~~  
19    ~~amended to read:~~

20    ~~371. If spouses are sued together, each may defend for his or~~  
21    ~~her own right, but if one spouse neglects to defend, the other spouse~~  
22    ~~may defend for that spouse's right also.~~

23    ~~SEC. 13. Section 116.540 of the Code of Civil Procedure is~~  
24    ~~amended to read:~~

25    ~~116.540. (a) Except as permitted by this section, no individual~~  
26    ~~other than the plaintiff and the defendant may take part in the~~  
27    ~~conduct or defense of a small claims action.~~

28    ~~(b) Except as additionally provided in subdivision (i), a~~  
29    ~~corporation may appear and participate in a small claims action~~  
30    ~~only through a regular employee, or a duly appointed or elected~~  
31    ~~officer or director, who is employed, appointed, or elected for~~  
32    ~~purposes other than solely representing the corporation in small~~  
33    ~~claims court.~~

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

39    ~~(d) If a party is an individual doing business as a sole~~  
40    ~~proprietorship, the party may appear and participate in a small~~

- 1 claims action by a representative and without personally appearing  
2 if both of the following conditions are met:
- 3 (1) The claim can be proved or disputed by evidence of an  
4 account that constitutes a business record as defined in Section  
5 1271 of the Evidence Code, and there is no other issue of fact in  
6 the case.
- 7 (2) The representative is a regular employee of the party for  
8 purposes other than solely representing the party in small claims  
9 actions and is qualified to testify to the identity and mode of  
10 preparation of the business record.
- 11 (e) A plaintiff is not required to personally appear, and may  
12 submit declarations to serve as evidence supporting his or her claim  
13 or allow another individual to appear and participate on his or her  
14 behalf, if (1) the plaintiff is serving on active duty in the United  
15 States Armed Forces outside this state, (2) the plaintiff was  
16 assigned to his or her duty station after his or her claim arose, (3)  
17 the assignment is for more than six months, (4) the representative  
18 is serving without compensation, and (5) the representative has  
19 appeared in small claims actions on behalf of others no more than  
20 four times during the calendar year. The defendant may file a claim  
21 in the same action in an amount not to exceed the jurisdictional  
22 limits stated in Sections 116.220, 116.221, and 116.231.
- 23 (f) A party incarcerated in a county jail, a Department of  
24 Corrections and Rehabilitation facility, or a Division of Juvenile  
25 Facilities facility is not required to personally appear, and may  
26 submit declarations to serve as evidence supporting his or her  
27 claim, or may authorize another individual to appear and participate  
28 on his or her behalf if that individual is serving without  
29 compensation and has appeared in small claims actions on behalf  
30 of others no more than four times during the calendar year.
- 31 (g) A defendant who is a nonresident owner of real property  
32 may defend against a claim relating to that property without  
33 personally appearing by (1) submitting written declarations to  
34 serve as evidence supporting his or her defense, (2) allowing  
35 another individual to appear and participate on his or her behalf if  
36 that individual is serving without compensation and has appeared  
37 in small claims actions on behalf of others no more than four times  
38 during the calendar year, or (3) taking the action described in both  
39 (1) and (2).

1     (h) ~~A party who is an owner of rental real property may appear~~  
2     ~~and participate in a small claims action through a property agent~~  
3     ~~under contract with the owner to manage the rental of that property;~~  
4     ~~if (1) the owner has retained the property agent principally to~~  
5     ~~manage the rental of that property and not principally to represent~~  
6     ~~the owner in small claims court, and (2) the claim relates to the~~  
7     ~~rental property.~~

8     (i) ~~A party that is an association created to manage a common~~  
9     ~~interest development, as defined in Section 4100 or in Sections~~  
10    ~~6528 and 6534 of the Civil Code, may appear and participate in a~~  
11    ~~small claims action through an agent, a management company~~  
12    ~~representative, or bookkeeper who appears on behalf of that~~  
13    ~~association.~~

14    (j) ~~At the hearing of a small claims action, the court shall require~~  
15    ~~any individual who is appearing as a representative of a party under~~  
16    ~~subdivisions (b) to (i), inclusive, to file a declaration stating (1)~~  
17    ~~that the individual is authorized to appear for the party, and (2)~~  
18    ~~the basis for that authorization. If the representative is appearing~~  
19    ~~under subdivision (b), (c), (d), (h), or (i), the declaration also shall~~  
20    ~~state that the individual is not employed solely to represent the~~  
21    ~~party in small claims court. If the representative is appearing under~~  
22    ~~subdivision (e), (f), or (g), the declaration also shall state that the~~  
23    ~~representative is serving without compensation, and has appeared~~  
24    ~~in small claims actions on behalf of others no more than four times~~  
25    ~~during the calendar year.~~

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

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

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

37    ~~SEC. 14. Section 703.140 of the Code of Civil Procedure is~~  
38    ~~amended to read:~~

39    ~~703.140. (a) In a case under Title 11 of the United States Code,~~  
40    ~~all of the exemptions provided by this chapter, including the~~

1 homestead exemption, other than the provisions of subdivision (b)  
2 are applicable regardless of whether there is a money judgment  
3 against the debtor or whether a money judgment is being enforced  
4 by execution sale or any other procedure, but the exemptions  
5 provided by subdivision (b) may be elected in lieu of all other  
6 exemptions provided by this chapter, as follows:

7 (1) If spouses are joined in the petition, they jointly may elect  
8 to utilize the applicable exemption provisions of this chapter other  
9 than the provisions of subdivision (b), or to utilize the applicable  
10 exemptions set forth in subdivision (b), but not both.

11 (2) If the petition is filed individually, and not jointly, for a  
12 spouse, the exemptions provided by this chapter other than the  
13 provisions of subdivision (b) are applicable, except that, if both  
14 of the spouses effectively waive in writing the right to claim, during  
15 the period the case commenced by filing the petition is pending,  
16 the exemptions provided by the applicable exemption provisions  
17 of this chapter, other than subdivision (b), in any case commenced  
18 by filing a petition for either of them under Title 11 of the United  
19 States Code, then they may elect to instead utilize the applicable  
20 exemptions set forth in subdivision (b):

21 (3) If the petition is filed for an unmarried person, that person  
22 may elect to utilize the applicable exemption provisions of this  
23 chapter other than subdivision (b), or to utilize the applicable  
24 exemptions set forth in subdivision (b), but not both.

25 (b) The following exemptions may be elected as provided in  
26 subdivision (a):

27 (1) The debtor's aggregate interest, not to exceed twenty-four  
28 thousand sixty dollars (\$24,060) in value, in real property or  
29 personal property that the debtor or a dependent of the debtor uses  
30 as a residence, in a cooperative that owns property that the debtor  
31 or a dependent of the debtor uses as a residence.

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

34 (3) The debtor's interest, not to exceed six hundred dollars  
35 (\$600) in value in any particular item, in household furnishings,  
36 household goods, wearing apparel, appliances, books, animals,  
37 crops, or musical instruments, that are held primarily for the  
38 personal, family, or household use of the debtor or a dependent of  
39 the debtor.



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

5     ~~(5) The debtor's aggregate interest, not to exceed in value one~~  
6     ~~thousand two hundred eighty dollars (\$1,280) plus any unused~~  
7     ~~amount of the exemption provided under paragraph (1), in any~~  
8     ~~property.~~

9     ~~(6) The debtor's aggregate interest, not to exceed seven thousand~~  
10    ~~one hundred seventy-five dollars (\$7,175) in value, in any~~  
11    ~~implements, professional books, or tools of the trade of the debtor~~  
12    ~~or the trade of a dependent of the debtor.~~

13    ~~(7) Any unmaturred life insurance contract owned by the debtor,~~  
14    ~~other than a credit life insurance contract.~~

15    ~~(8) The debtor's aggregate interest, not to exceed in value twelve~~  
16    ~~thousand eight hundred sixty dollars (\$12,860), in any accrued~~  
17    ~~dividend or interest under, or loan value of, any unmaturred life~~  
18    ~~insurance contract owned by the debtor under which the insured~~  
19    ~~is the debtor or an individual of whom the debtor is a dependent.~~

20    ~~(9) Professionally prescribed health aids for the debtor or a~~  
21    ~~dependent of the debtor.~~

22    ~~(10) The debtor's right to receive any of the following:~~

23    ~~(A) A social security benefit, unemployment compensation, or~~  
24    ~~a local public assistance benefit.~~

25    ~~(B) A veterans' benefit.~~

26    ~~(C) A disability, illness, or unemployment benefit.~~

27    ~~(D) Alimony, support, or separate maintenance, to the extent~~  
28    ~~reasonably necessary for the support of the debtor and any~~  
29    ~~dependent of the debtor.~~

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

35    ~~(i) That plan or contract was established by or under the auspices~~  
36    ~~of an insider that employed the debtor at the time the debtor's~~  
37    ~~rights under the plan or contract arose.~~

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

1     ~~(iii) That plan or contract does not qualify under Section 401(a),~~  
2     ~~403(a), 403(b), 408, or 408A of the Internal Revenue Code of~~  
3     ~~1986.~~

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

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

7     ~~(B) A payment on account of the wrongful death of an individual~~  
8     ~~of whom the debtor was a dependent, to the extent reasonably~~  
9     ~~necessary for the support of the debtor and any dependent of the~~  
10    ~~debtor.~~

11    ~~(C) A payment under a life insurance contract that insured the~~  
12    ~~life of an individual of whom the debtor was a dependent on the~~  
13    ~~date of that individual's death, to the extent reasonably necessary~~  
14    ~~for the support of the debtor and any dependent of the debtor.~~

15    ~~(D) A payment, not to exceed twenty-four thousand sixty dollars~~  
16    ~~(\$24,060), on account of personal bodily injury of the debtor or~~  
17    ~~an individual of whom the debtor is a dependent.~~

18    ~~(E) A payment in compensation of loss of future earnings of~~  
19    ~~the debtor or an individual of whom the debtor is or was a~~  
20    ~~dependent, to the extent reasonably necessary for the support of~~  
21    ~~the debtor and any dependent of the debtor.~~

22    ~~SEC. 15. Section 704.930 of the Code of Civil Procedure is~~  
23    ~~amended to read:~~

24    ~~704.930. (a) A homestead declaration recorded pursuant to~~  
25    ~~this article shall contain all of the following:~~

26    ~~(1) The name of the declared homestead owner. Spouses both~~  
27    ~~may be named as declared homestead owners in the same~~  
28    ~~homestead declaration if each owns an interest in the dwelling~~  
29    ~~selected as the declared homestead.~~

30    ~~(2) A description of the declared homestead.~~

31    ~~(3) A statement that the declared homestead is the principal~~  
32    ~~dwelling of the declared homestead owner or such person's spouse;~~  
33    ~~and that the declared homestead owner or such person's spouse~~  
34    ~~resides in the declared homestead on the date the homestead~~  
35    ~~declaration is recorded.~~

36    ~~(b) The homestead declaration shall be executed and~~  
37    ~~acknowledged in the manner of an acknowledgment of a~~  
38    ~~conveyance of real property by at least one of the following~~  
39    ~~persons:~~

40    ~~(1) The declared homestead owner.~~

- 1     ~~(2) The spouse of the declared homestead owner.~~  
2     ~~(3) The guardian or conservator of the person or estate of either~~  
3     ~~of the persons listed in paragraph (1) or (2). The guardian or~~  
4     ~~conservator may execute, acknowledge, and record a homestead~~  
5     ~~declaration without the need to obtain court authorization.~~  
6     ~~(4) A person acting under a power of attorney or otherwise~~  
7     ~~authorized to act on behalf of a person listed in paragraph (1) or~~  
8     ~~(2).~~  
9     ~~(e) The homestead declaration shall include a statement that the~~  
10    ~~facts stated in the homestead declaration are known to be true as~~  
11    ~~of the personal knowledge of the person executing and~~  
12    ~~acknowledging the homestead declaration. If the homestead~~  
13    ~~declaration is executed and acknowledged by a person listed in~~  
14    ~~paragraph (3) or (4) of subdivision (b), it shall also contain a~~  
15    ~~statement that the person has authority to so act on behalf of the~~  
16    ~~declared homestead owner or the spouse of the declared homestead~~  
17    ~~owner and the source of the person's authority.~~  
18    SEC. 16. ~~Section 158 of the Corporations Code is amended to~~  
19    ~~read:~~  
20    ~~158. (a) "Close corporation" means a corporation, including~~  
21    ~~a close social purpose corporation, whose articles contain, in~~  
22    ~~addition to the provisions required by Section 202, a provision that~~  
23    ~~all of the corporation's issued shares of all classes shall be held of~~  
24    ~~record by not more than a specified number of persons, not~~  
25    ~~exceeding 35, and a statement "This corporation is a close~~  
26    ~~corporation."~~  
27    ~~(b) The special provisions referred to in subdivision (a) may be~~  
28    ~~included in the articles by amendment, but if such amendment is~~  
29    ~~adopted after the issuance of shares only by the affirmative vote~~  
30    ~~of all of the issued and outstanding shares of all classes.~~  
31    ~~(c) The special provisions referred to in subdivision (a) may be~~  
32    ~~deleted from the articles by amendment, or the number of~~  
33    ~~shareholders specified may be changed by amendment, but if such~~  
34    ~~amendment is adopted after the issuance of shares, only by the~~  
35    ~~affirmative vote of at least two-thirds of each class of the~~  
36    ~~outstanding shares; provided, however, that the articles may~~  
37    ~~provide for a lesser vote, but not less than a majority of the~~  
38    ~~outstanding shares, or may deny a vote to any class, or both.~~  
39    ~~(d) In determining the number of shareholders for the purposes~~  
40    ~~of the provision in the articles authorized by this section, spouses~~

1 and the personal representative of either shall be counted as one  
2 regardless of how shares may be held by either or both of them, a  
3 trust or personal representative of a decedent holding shares shall  
4 be counted as one regardless of the number of trustees or  
5 beneficiaries, and a partnership or corporation or business  
6 association holding shares shall be counted as one (except that any  
7 such trust or entity the primary purpose of which was the  
8 acquisition or voting of the shares shall be counted according to  
9 the number of beneficial interests therein).

10 (e) A corporation shall cease to be a close corporation upon the  
11 filing of an amendment to its articles pursuant to subdivision (c)  
12 or, if it shall have more than the maximum number of holders of  
13 record of its shares specified in its articles as a result of an inter  
14 vivos transfer of shares which is not void under subdivision (d) of  
15 Section 418, the transfer of shares on distribution by will or  
16 pursuant to the laws of descent and distribution, the dissolution of  
17 a partnership or corporation or business association, or the  
18 termination of a trust which holds shares, by court decree upon  
19 dissolution of a marriage or otherwise by operation of law.  
20 Promptly upon acquiring more than the specified number of holders  
21 of record of its shares, a close corporation shall execute and file  
22 an amendment to its articles deleting the special provisions referred  
23 to in subdivision (a) and deleting any other provisions not  
24 permissible for a corporation which is not a close corporation,  
25 which amendment shall be promptly approved and filed by the  
26 board and need not be approved by the outstanding shares.

27 (f) Nothing contained in this section shall invalidate any  
28 agreement among the shareholders to vote for the deletion from  
29 the articles of the special provisions referred to in subdivision (a)  
30 upon the lapse of a specified period of time or upon the occurrence  
31 of a certain event or condition or otherwise.

32 (g) The following sections contain specific references to close  
33 corporations: Sections 186, 202, 204, 300, 418, 421, 1111, 1201,  
34 1800, and 1904.

35 SEC. 17. Section 704 of the Corporations Code is amended to  
36 read:

37 704. If shares stand of record in the names of two or more  
38 persons, whether fiduciaries, members of a partnership, joint  
39 tenants, tenants in common, spouses as community property,  
40 tenants by the entirety, voting trustees, persons entitled to vote

1 under a shareholder voting agreement or otherwise, or if two or  
2 more persons (including proxyholders) have the same fiduciary  
3 relationship respecting the same shares, unless the secretary of the  
4 corporation is given written notice to the contrary and is furnished  
5 with a copy of the instrument or order appointing them or creating  
6 the relationship wherein it is so provided, their acts with respect  
7 to voting shall have the following effect:

8 —(1) If only one votes, such act binds all;

9 —(2) If more than one vote, the act of the majority so voting  
10 binds all;

11 —(3) If more than one vote, but the vote is evenly split on any  
12 particular matter, each faction may vote the securities in question  
13 proportionately.

14 -

15 If the instrument so filed or the registration of the shares shows  
16 that any such tenancy is held in unequal interests, a majority or  
17 even split for the purpose of this section shall be a majority or even  
18 split in interest.

19 SEC. 18. Section 5612 of the Corporations Code is amended  
20 to read:

21 5612. If a membership stands of record in the names of two or  
22 more persons, whether fiduciaries, members of a partnership, joint  
23 tenants, tenants in common, spouses as community property,  
24 tenants by the entirety, or otherwise, or if two or more persons  
25 (including proxyholders) have the same fiduciary relationship  
26 respecting the same membership, unless the secretary of the  
27 corporation is given written notice to the contrary and is furnished  
28 with a copy of the instrument or order appointing them or creating  
29 the relationship wherein it is so provided, their acts with respect  
30 to voting shall have the following effect:

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

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

34 SEC. 19. Section 7612 of the Corporations Code is amended  
35 to read:

36 7612. If a membership stands of record in the names of two or  
37 more persons, whether fiduciaries, members of a partnership, joint  
38 tenants, tenants in common, spouses as community property,  
39 tenants by the entirety, persons entitled to vote under a voting  
40 agreement or otherwise, or if two or more persons (including

1 proxyholders) have the same fiduciary relationship respecting the  
2 same membership, unless the secretary of the corporation is given  
3 written notice to the contrary and is furnished with a copy of the  
4 instrument or order appointing them or creating the relationship  
5 wherein it is so provided, their acts with respect to voting shall  
6 have the following effect:

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

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

10 SEC. 20. Section 12482 of the Corporations Code is amended  
11 to read:

12 12482. Unless otherwise provided in the articles or bylaws, if  
13 a membership stands of record in the names of two or more  
14 persons, whether fiduciaries, members of a partnership, joint  
15 tenants, tenants in common, spouses as community property,  
16 tenants by the entirety, persons entitled to vote under a voting  
17 agreement or otherwise, or if two or more persons have the same  
18 fiduciary relationship respecting the same membership, unless the  
19 secretary of the corporation is given written notice to the contrary  
20 and is furnished with a copy of the instrument or order appointing  
21 them or creating the relationship wherein it is so provided, their  
22 acts with respect to voting shall have the following effect:

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

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

26 SEC. 21. Section 25102 of the Corporations Code is amended  
27 to read:

28 25102. The following transactions are exempted from the  
29 provisions of Section 25110:

30 (a) Any offer (but not a sale) not involving any public offering  
31 and the execution and delivery of any agreement for the sale of  
32 securities pursuant to the offer if (1) the agreement contains  
33 substantially the following provision: "The sale of the securities  
34 that are the subject of this agreement has not been qualified with  
35 the Commissioner of Corporations of the State of California and  
36 the issuance of the securities or the payment or receipt of any part  
37 of the consideration therefor prior to the qualification is unlawful,  
38 unless the sale of securities is exempt from the qualification by  
39 Section 25100, 25102, or 25105 of the California Corporations  
40 Code. The rights of all parties to this agreement are expressly

1 conditioned upon the qualification being obtained, unless the sale  
2 is so exempt"; and (2) no part of the purchase price is paid or  
3 received and none of the securities are issued until the sale of the  
4 securities is qualified under this law unless the sale of securities  
5 is exempt from the qualification by this section, Section 25100,  
6 or 25105.

7 (b) Any offer (but not a sale) of a security for which a  
8 registration statement has been filed under the Securities Act of  
9 1933 but has not yet become effective, or for which an offering  
10 statement under Regulation A has been filed but has not yet been  
11 qualified, if no stop order or refusal order is in effect and no public  
12 proceeding or examination looking towards an order is pending  
13 under Section 8 of the act and no order under Section 25140 or  
14 subdivision (a) of Section 25143 is in effect under this law.

15 (c) Any offer (but not a sale) and the execution and delivery of  
16 any agreement for the sale of securities pursuant to the offer as  
17 may be permitted by the commissioner upon application. Any  
18 negotiating permit under this subdivision shall be conditioned to  
19 the effect that none of the securities may be issued and none of  
20 the consideration therefor may be received or accepted until the  
21 sale of the securities is qualified under this law.

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

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

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

32 (1) Sales of the security are not made to more than 35 persons;  
33 including persons not in this state.

34 (2) All purchasers either have a preexisting personal or business  
35 relationship with the offeror or any of its partners, officers,  
36 directors or controlling persons, or managers (as appointed or  
37 elected by the members) if the offeror is a limited liability  
38 company, or by reason of their business or financial experience or  
39 the business or financial experience of their professional advisers  
40 who are unaffiliated with and who are not compensated by the

1 issuer or any affiliate or selling agent of the issuer, directly or  
2 indirectly, could be reasonably assumed to have the capacity to  
3 protect their own interests in connection with the transaction.

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

8 (4) The offer and sale of the security is not accomplished by  
9 the publication of any advertisement. The number of purchasers  
10 referred to above is exclusive of any described in subdivision (i),  
11 any officer, director, or affiliate of the issuer, or manager (as  
12 appointed or elected by the members) if the issuer is a limited  
13 liability company, and any other purchaser who the commissioner  
14 designates by rule. For purposes of this section, spouses (together  
15 with any custodian or trustee acting for the account of their minor  
16 children) are counted as one person and a partnership, corporation,  
17 or other organization that was not specifically formed for the  
18 purpose of purchasing the security offered in reliance upon this  
19 exemption, is counted as one person. The commissioner shall by  
20 rule require the issuer to file a notice of transactions under this  
21 subdivision.

22 The failure to file the notice or the failure to file the notice within  
23 the time specified by the rule of the commissioner shall not affect  
24 the availability of the exemption. Any issuer that fails to file the  
25 notice as provided by rule of the commissioner shall, within 15  
26 business days after discovery of the failure to file the notice or  
27 after demand by the commissioner, whichever occurs first, file the  
28 notice and pay to the commissioner a fee equal to the fee payable  
29 had the transaction been qualified under Section 25110. Neither  
30 the filing of the notice nor the failure by the commissioner to  
31 comment thereon precludes the commissioner from taking any  
32 action that the commissioner deems necessary or appropriate under  
33 this division with respect to the offer and sale of the securities.

34 (g) Any offer or sale of conditional sale agreements, equipment  
35 trust certificates, or certificates of interest or participation therein  
36 or partial assignments thereof, covering the purchase of railroad  
37 rolling stock or equipment or the purchase of motor vehicles,  
38 aircraft, or parts thereof, in a transaction not involving any public  
39 offering.



1     ~~(h) Any offer or sale of voting common stock by a corporation~~  
2     ~~incorporated in any state if, immediately after the proposed sale~~  
3     ~~and issuance, there will be only one class of stock of the~~  
4     ~~corporation outstanding that is owned beneficially by no more than~~  
5     ~~35 persons, provided all of the following requirements have been~~  
6     ~~met:~~

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

10    ~~(2) The consideration to be received by the issuer for the stock~~  
11    ~~to be issued consists of any of the following:~~

12    ~~(A) Only assets (which may include cash) of an existing business~~  
13    ~~enterprise transferred to the issuer upon its initial organization, of~~  
14    ~~which all of the persons who are to receive the stock to be issued~~  
15    ~~pursuant to this exemption were owners during, and the enterprise~~  
16    ~~was operated for, a period of not less than one year immediately~~  
17    ~~preceding the proposed issuance, and the ownership of the~~  
18    ~~enterprise immediately prior to the proposed issuance was in the~~  
19    ~~same proportions as the shares of stock are to be issued.~~

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

23    ~~(C) Only cash, provided the sale is approved in writing by each~~  
24    ~~of the existing shareholders and the purchaser or purchasers are~~  
25    ~~existing shareholders.~~

26    ~~(D) In a case where after the proposed issuance there will be~~  
27    ~~only one owner of the stock of the issuer, only any legal~~  
28    ~~consideration.~~

29    ~~(3) No promotional consideration has been given, paid, or~~  
30    ~~incurred in connection with the issuance. Promotional consideration~~  
31    ~~means any consideration paid directly or indirectly to a person~~  
32    ~~who, acting alone or in conjunction with one or more other persons,~~  
33    ~~takes the initiative in founding and organizing the business or~~  
34    ~~enterprise of an issuer for services rendered in connection with the~~  
35    ~~founding or organizing.~~

36    ~~(4) A notice in a form prescribed by rule of the commissioner,~~  
37    ~~signed by an active member of the State Bar of California, is filed~~  
38    ~~with or mailed for filing to the commissioner not later than 10~~  
39    ~~business days after receipt of consideration for the securities by~~  
40    ~~the issuer. That notice shall contain an opinion of the member of~~

1 the State Bar of California that the exemption provided by this  
2 subdivision is available for the offer and sale of the securities. The  
3 failure to file the notice as required by this subdivision and the  
4 rules of the commissioner shall not affect the availability of this  
5 exemption. An issuer who fails to file the notice within the time  
6 specified by this subdivision shall, within 15 business days after  
7 discovery of the failure to file the notice or after demand by the  
8 commissioner, whichever occurs first, file the notice and pay to  
9 the commissioner a fee equal to the fee payable had the transaction  
10 been qualified under Section 25110. The notice, except when filed  
11 on behalf of a California corporation, shall be accompanied by an  
12 irrevocable consent, in the form that the commissioner by rule  
13 prescribes, appointing the commissioner or his or her successor in  
14 office to be the issuer's attorney to receive service of any lawful  
15 process in any noncriminal suit, action, or proceeding against it  
16 or its successor that arises under this law or any rule or order  
17 hereunder after the consent has been filed, with the same force and  
18 validity as if served personally on the issuer. An issuer on whose  
19 behalf a consent has been filed in connection with a previous  
20 qualification or exemption from qualification under this law (or  
21 application for a permit under any prior law if the application or  
22 notice under this law states that the consent is still effective) need  
23 not file another. Service may be made by leaving a copy of the  
24 process in the office of the commissioner, but it is not effective  
25 unless (A) the plaintiff, who may be the commissioner in a suit,  
26 action, or proceeding instituted by him or her, forthwith sends  
27 notice of the service and a copy of the process by registered or  
28 certified mail to the defendant or respondent at its last address on  
29 file with the commissioner, and (B) the plaintiff's affidavit of  
30 compliance with this section is filed in the case on or before the  
31 return day of the process, if any, or within the further time as the  
32 court allows.

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

37 For the purposes of this subdivision, all securities held by  
38 spouses, whether or not jointly, shall be considered to be owned  
39 by one person, and all securities held by a corporation that has

1 issued stock pursuant to this exemption shall be considered to be  
2 held by the shareholders to whom it has issued the stock.

3 All stock issued by a corporation pursuant to this subdivision as  
4 it existed prior to the effective date of the amendments to this  
5 section made during the 1996 portion of the 1995-96 Regular  
6 Session that required the issuer to have stamped or printed  
7 prominently on the face of the stock certificate a legend in a form  
8 prescribed by rule of the commissioner restricting transfer of the  
9 stock in a manner provided for by that rule shall not be subject to  
10 the transfer restriction legend requirement and, by operation of  
11 law, the corporation is authorized to remove that transfer restriction  
12 legend from the certificates of those shares of stock issued by the  
13 corporation pursuant to this subdivision as it existed prior to the  
14 effective date of the amendments to this section made during the  
15 1996 portion of the 1995-96 Regular Session.

16 (i) Any offer or sale (1) to a bank, savings and loan association,  
17 trust company, insurance company, investment company registered  
18 under the Investment Company Act of 1940, pension or  
19 profit-sharing trust (other than a pension or profit-sharing trust of  
20 the issuer, a self-employed individual retirement plan, or individual  
21 retirement account), or other institutional investor or governmental  
22 agency or instrumentality that the commissioner may designate  
23 by rule, whether the purchaser is acting for itself or as trustee, or  
24 (2) to any corporation with outstanding securities registered under  
25 Section 12 of the Securities Exchange Act of 1934 or any wholly  
26 owned subsidiary of the corporation that after the offer and sale  
27 will own directly or indirectly 100 percent of the outstanding  
28 capital stock of the issuer, provided the purchaser represents that  
29 it is purchasing for its own account (or for the trust account) for  
30 investment and not with a view to or for sale in connection with  
31 any distribution of the security.

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

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

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

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

- 1     ~~(C) Have been found by the commissioner upon written~~  
2     ~~application to be substantially engaged in the business of drilling~~  
3     ~~for, producing, or refining oil or gas so as not to require the~~  
4     ~~protection provided by this law (which finding shall be effective~~  
5     ~~until rescinded).~~
- 6     ~~(2) The security is concurrently hypothecated to a bank in the~~  
7     ~~ordinary course of business to secure a loan made by the bank,~~  
8     ~~provided that each purchaser represents that it is purchasing for~~  
9     ~~its own account for investment and not with a view to or for sale~~  
10    ~~in connection with any distribution of the security.~~
- 11    ~~(k) Any offer or sale of any security under, or pursuant to, a~~  
12    ~~plan of reorganization under Chapter 11 of the federal bankruptcy~~  
13    ~~law that has been confirmed or is subject to confirmation by the~~  
14    ~~decree or order of a court of competent jurisdiction.~~
- 15    ~~(l) Any offer or sale of an option, warrant, put, call, or straddle,~~  
16    ~~and any guarantee of any of these securities, by a person who is~~  
17    ~~not the issuer of the security subject to the right, if the transaction,~~  
18    ~~had it involved an offer or sale of the security subject to the right~~  
19    ~~by the person, would not have violated Section 25110 or 25130.~~
- 20    ~~(m) Any offer or sale of a stock to a pension, profit-sharing,~~  
21    ~~stock bonus, or employee stock ownership plan, provided that (1)~~  
22    ~~the plan meets the requirements for qualification under Section~~  
23    ~~401 of the Internal Revenue Code, and (2) the employees are not~~  
24    ~~required or permitted individually to make any contributions to~~  
25    ~~the plan. The exemption provided by this subdivision shall not be~~  
26    ~~affected by whether the stock is contributed to the plan, purchased~~  
27    ~~from the issuer with contributions by the issuer or an affiliate of~~  
28    ~~the issuer, or purchased from the issuer with funds borrowed from~~  
29    ~~the issuer, an affiliate of the issuer, or any other lender.~~
- 30    ~~(n) Any offer or sale of any security in a transaction, other than~~  
31    ~~an offer or sale of a security in a rollup transaction, that meets all~~  
32    ~~of the following criteria:~~
- 33    ~~(1) The issuer is (A) a California corporation or foreign~~  
34    ~~corporation that, at the time of the filing of the notice required~~  
35    ~~under this subdivision, is subject to Section 2115, or (B) any other~~  
36    ~~form of business entity, including without limitation a partnership~~  
37    ~~or trust organized under the laws of this state. The exemption~~  
38    ~~provided by this subdivision is not available to a “blind pool”~~  
39    ~~issuer, as that term is defined by the commissioner, or to an~~

1 investment company subject to the Investment Company Act of  
2 1940.

3 (2) Sales of securities are made only to qualified purchasers or  
4 other persons the issuer reasonably believes, after reasonable  
5 inquiry, to be qualified purchasers. A corporation, partnership, or  
6 other organization specifically formed for the purpose of acquiring  
7 the securities offered by the issuer in reliance upon this exemption  
8 may be a qualified purchaser if each of the equity owners of the  
9 corporation, partnership, or other organization is a qualified  
10 purchaser. Qualified purchasers include the following:

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

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

15 (C) A pension or profit-sharing trust of the issuer, a  
16 self-employed individual retirement plan, or an individual  
17 retirement account, if the investment decisions made on behalf of  
18 the trust, plan, or account are made solely by persons who are  
19 qualified purchasers.

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

25 (E) With respect to the offer and sale of one class of voting  
26 common stock of an issuer or of preferred stock of an issuer  
27 entitling the holder thereof to at least the same voting rights as the  
28 issuer's one class of voting common stock, provided that the issuer  
29 has only one class voting common stock outstanding upon  
30 consummation of the offer and sale, a natural person who, either  
31 individually or jointly with the person's spouse, (i) has a minimum  
32 net worth of two hundred fifty thousand dollars (\$250,000) and  
33 had, during the immediately preceding tax year, gross income in  
34 excess of one hundred thousand dollars (\$100,000) and reasonably  
35 expects gross income in excess of one hundred thousand dollars  
36 (\$100,000) during the current tax year or (ii) has a minimum net  
37 worth of five hundred thousand dollars (\$500,000). "Net worth"  
38 shall be determined exclusive of home, home furnishings, and  
39 automobiles. Other assets included in the computation of net worth  
40 may be valued at fair market value.

1 Each natural person specified above, by reason of his or her  
2 business or financial experience, or the business or financial  
3 experience of his or her professional adviser, who is unaffiliated  
4 with and who is not compensated, directly or indirectly, by the  
5 issuer or any affiliate or selling agent of the issuer, can be  
6 reasonably assumed to have the capacity to protect his or her  
7 interests in connection with the transaction. The amount of the  
8 investment of each natural person shall not exceed 10 percent of  
9 the net worth, as determined by this subparagraph, of that natural  
10 person.

11 (F) Any other purchaser designated as qualified by rule of the  
12 commissioner.

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

17 (4) Each natural person purchaser, including a corporation,  
18 partnership, or other organization specifically formed by natural  
19 persons for the purpose of acquiring the securities offered by the  
20 issuer, receives, at least five business days before securities are  
21 sold to, or a commitment to purchase is accepted from, the  
22 purchaser, a written offering disclosure statement that shall meet  
23 the disclosure requirements of Regulation D (17 C.F.R. 230.501  
24 et seq.), and any other information as may be prescribed by rule  
25 of the commissioner, provided that the issuer shall not be obligated  
26 pursuant to this paragraph to provide this disclosure statement to  
27 a natural person qualified under Section 260.102.13 of Title 10 of  
28 the California Code of Regulations. The offer or sale of securities  
29 pursuant to a disclosure statement required by this paragraph that  
30 is in violation of Section 25401, or that fails to meet the disclosure  
31 requirements of Regulation D (17 C.F.R. 230.501 et seq.), shall  
32 not render unavailable to the issuer the claim of an exemption from  
33 Section 25110 afforded by this subdivision. This paragraph does  
34 not impose, directly or indirectly, any additional disclosure  
35 obligation with respect to any other exemption from qualification  
36 available under any other provision of this section.

37 (5) (A) A general announcement of proposed offering may be  
38 published by written document only, provided that the general  
39 announcement of proposed offering sets forth the following  
40 required information:

- 1     ~~(i) The name of the issuer of the securities.~~
- 2     ~~(ii) The full title of the security to be issued.~~
- 3     ~~(iii) The anticipated suitability standards for prospective~~
- 4     ~~purchasers.~~
- 5     ~~(iv) A statement that (I) no money or other consideration is~~
- 6     ~~being solicited or will be accepted, (II) an indication of interest~~
- 7     ~~made by a prospective purchaser involves no obligation or~~
- 8     ~~commitment of any kind, and, if the issuer is required by paragraph~~
- 9     ~~(4) to deliver a disclosure statement to prospective purchasers;~~
- 10    ~~(III) no sales will be made or commitment to purchase accepted~~
- 11    ~~until five business days after delivery of a disclosure statement~~
- 12    ~~and subscription information to the prospective purchaser in~~
- 13    ~~accordance with the requirements of this subdivision.~~
- 14    ~~(v) Any other information required by rule of the commissioner.~~
- 15    ~~(vi) The following legend: "For more complete information~~
- 16    ~~about (Name of Issuer) and (Full Title of Security), send for~~
- 17    ~~additional information from (Name and Address) by sending this~~
- 18    ~~coupon or calling (Telephone Number)."~~
- 19    ~~(B) The general announcement of proposed offering referred~~
- 20    ~~to in subparagraph (A) may also set forth the following~~
- 21    ~~information:~~
- 22      ~~(i) A brief description of the business of the issuer.~~
- 23      ~~(ii) The geographic location of the issuer and its business.~~
- 24      ~~(iii) The price of the security to be issued, or, if the price is not~~
- 25      ~~known, the method of its determination or the probable price range~~
- 26      ~~as specified by the issuer, and the aggregate offering price.~~
- 27    ~~(C) The general announcement of proposed offering shall~~
- 28    ~~contain only the information that is set forth in this paragraph.~~
- 29    ~~(D) Dissemination of the general announcement of proposed~~
- 30    ~~offering to persons who are not qualified purchasers, without more,~~
- 31    ~~shall not disqualify the issuer from claiming the exemption under~~
- 32    ~~this subdivision.~~
- 33    ~~(6) No telephone solicitation shall be permitted until the issuer~~
- 34    ~~has determined that the prospective purchaser to be solicited is a~~
- 35    ~~qualified purchaser.~~
- 36    ~~(7) The issuer files a notice of transaction under this subdivision~~
- 37    ~~both (A) concurrent with the publication of a general announcement~~
- 38    ~~of proposed offering or at the time of the initial offer of the~~
- 39    ~~securities, whichever occurs first, accompanied by a filing fee, and~~
- 40    ~~(B) within 10 business days following the close or abandonment~~

1 of the offering, but in no case more than 210 days from the date  
2 of filing the first notice. The first notice of transaction under  
3 subparagraph (A) shall contain an undertaking, in a form acceptable  
4 to the commissioner, to deliver any disclosure statement required  
5 by paragraph (4) to be delivered to prospective purchasers, and  
6 any supplement thereto, to the commissioner within 10 days of  
7 the commissioner's request for the information. The exemption  
8 from qualification afforded by this subdivision is unavailable if  
9 an issuer fails to file the first notice required under subparagraph  
10 (A) or to pay the filing fee. The commissioner has the authority  
11 to assess an administrative penalty of up to one thousand dollars  
12 (\$1,000) against an issuer that fails to deliver the disclosure  
13 statement required to be delivered to the commissioner upon the  
14 commissioner's request within the time period set forth above.  
15 Neither the filing of the disclosure statement nor the failure by the  
16 commissioner to comment thereon precludes the commissioner  
17 from taking any action deemed necessary or appropriate under this  
18 division with respect to the offer and sale of the securities.

19 (o) An offer or sale of any security issued by a corporation or  
20 limited liability company pursuant to a purchase plan or agreement,  
21 or issued pursuant to an option plan or agreement, where the  
22 security at the time of issuance or grant is exempt from registration  
23 under the Securities Act of 1933, as amended, pursuant to Rule  
24 701 adopted pursuant to that act (17 C.F.R. 230.701), the provisions  
25 of which are hereby incorporated by reference into this section,  
26 provided that (1) the terms of any purchase plan or agreement shall  
27 comply with Sections 260.140.42, 260.140.45, and 260.140.46 of  
28 Title 10 of the California Code of Regulations, (2) the terms of  
29 any option plan or agreement shall comply with Sections  
30 260.140.41, 260.140.45, and 260.140.46 of Title 10 of the  
31 California Code of Regulations, and (3) the issuer files a notice of  
32 transaction in accordance with rules adopted by the commissioner  
33 no later than 30 days after the initial issuance of any security under  
34 that plan, accompanied by a filing fee as prescribed by subdivision  
35 (y) of Section 25608. The failure to file the notice of transaction  
36 within the time specified in this subdivision shall not affect the  
37 availability of this exemption. An issuer that fails to file the notice  
38 shall, within 15 business days after discovery of the failure to file  
39 the notice or after demand by the commissioner, whichever occurs  
40 first, file the notice and pay the commissioner a fee equal to the



1 maximum aggregate fee payable had the transaction been qualified  
2 under Section 25110.

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

8 (p) An offer or sale of nonredeemable securities to accredited  
9 investors (Section 28031) by a person licensed under the Capital  
10 Access Company Law (Division 3 (commencing with Section  
11 28000) of Title 4), provided that all purchasers either (1) have a  
12 preexisting personal or business relationship with the offeror or  
13 any of its partners, officers, directors, controlling persons, or  
14 managers (as appointed or elected by the members), or (2) by  
15 reason of their business or financial experience or the business or  
16 financial experience of their professional advisers who are  
17 unaffiliated with and who are not compensated by the issuer or  
18 any affiliate or selling agent of the issuer, directly or indirectly,  
19 could be reasonably assumed to have the capacity to protect their  
20 own interests in connection with the transaction. All nonredeemable  
21 securities shall be evidenced by certificates that shall have stamped  
22 or printed prominently on their face a legend in a form to be  
23 prescribed by rule or order of the commissioner restricting transfer  
24 of the securities in the manner as the rule or order provides. The  
25 exemption under this subdivision shall not be available for any  
26 offering that is exempt or asserted to be exempt pursuant to Section  
27 3(a)(11) of the Securities Act of 1933 (15 U.S.C. Sec. 77e(a)(11))  
28 or Rule 147 (17 C.F.R. 230.147) thereunder or otherwise is  
29 conducted by means of any form of general solicitation or general  
30 advertising.

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

34 (1) Sales of securities described in this subdivision are made  
35 only to qualified purchasers or other persons the issuer reasonably  
36 believes, after reasonable inquiry, to be qualified purchasers. A  
37 corporation, partnership, or other organization specifically formed  
38 for the purpose of acquiring the securities offered by the issuer in  
39 reliance upon this exemption may be a qualified purchaser only if  
40 each of the equity owners of the corporation, partnership, or other

- 1 organization is a qualified purchaser. Qualified purchasers include  
2 the following:
- 3 (A) A person designated in Section 260.102.13 of Title 10 of  
4 the California Code of Regulations.
- 5 (B) A person designated in subdivision (i) or any rule of the  
6 commissioner adopted thereunder.
- 7 (C) A pension or profit-sharing trust of the issuer, a  
8 self-employed individual retirement plan, or an individual  
9 retirement account, if the investment decisions made on behalf of  
10 the trust, plan, or account are made solely by persons who are  
11 qualified purchasers.
- 12 (D) An organization described in Section 501(c)(3) of the  
13 Internal Revenue Code, corporation, Massachusetts or similar  
14 business trust, or partnership, each with total assets in excess of  
15 five million dollars (\$5,000,000) according to its most recent  
16 audited financial statements.
- 17 (E) A natural person who, either individually or jointly with the  
18 person's spouse, (i) has a minimum net worth of one hundred fifty  
19 thousand dollars (\$150,000) and had, during the immediately  
20 preceding tax year, gross income in excess of one hundred thousand  
21 dollars (\$100,000) and reasonably expects gross income in excess  
22 of one hundred thousand dollars (\$100,000) during the current tax  
23 year or (ii) has a minimum net worth of two hundred fifty thousand  
24 dollars (\$250,000). "Net worth" shall be determined exclusive of  
25 home, home furnishings, and automobiles. Other assets included  
26 in the computation of net worth may be valued at fair market value.
- 27 Each natural person specified above, by reason of his or her  
28 business or financial experience, or the business or financial  
29 experience of his or her professional adviser, who is unaffiliated  
30 with and who is not compensated, directly or indirectly, by the  
31 issuer or any affiliate or selling agent of the issuer, can be  
32 reasonably assumed to have the capacity to protect his or her  
33 interests in connection with the transaction.
- 34 The amount of the investment of each natural person shall not  
35 exceed 10 percent of the net worth, as determined by this  
36 subdivision, of that natural person.
- 37 (F) Any other purchaser designated as qualified by rule of the  
38 commissioner.
- 39 (2) Each purchaser represents that the purchaser is purchasing  
40 for the purchaser's own account (or trust account, if the purchaser

1 is a trustee) and not with a view to or for sale in connection with  
2 a distribution of the security.

3 ~~(3) Each natural person purchaser, including a corporation,~~  
4 ~~partnership, or other organization specifically formed by natural~~  
5 ~~persons for the purpose of acquiring the securities offered by the~~  
6 ~~issuer, receives, at least five business days before securities~~  
7 ~~described in this subdivision are sold to, or a commitment to~~  
8 ~~purchase is accepted from, the purchaser, the following information~~  
9 ~~in writing:~~

10 ~~(A) The name, principal business and mailing address, and~~  
11 ~~telephone number of the issuer.~~

12 ~~(B) The suitability standards for prospective purchasers as set~~  
13 ~~forth in paragraph (1) of this subdivision.~~

14 ~~(C) A description of the issuer's type of business organization~~  
15 ~~and the state in which the issuer is organized or incorporated.~~

16 ~~(D) A brief description of the business of the issuer.~~

17 ~~(E) If the issuer retains ownership or becomes the beneficiary~~  
18 ~~of the insurance policy, an audit report of an independent certified~~  
19 ~~public accountant together with a balance sheet and related~~  
20 ~~statements of income, retained earnings, and cashflows that reflect~~  
21 ~~the issuer's financial position, the results of the issuer's operations,~~  
22 ~~and the issuer's cashflows as of a date within 15 months before~~  
23 ~~the date of the initial issuance of the securities described in this~~  
24 ~~subdivision. The financial statements listed in this subparagraph~~  
25 ~~shall be prepared in conformity with generally accepted accounting~~  
26 ~~principles. If the date of the audit report is more than 120 days~~  
27 ~~before the date of the initial issuance of the securities described~~  
28 ~~in this subdivision, the issuer shall provide unaudited interim~~  
29 ~~financial statements.~~

30 ~~(F) The names of all directors, officers, partners, members, or~~  
31 ~~trustees of the issuer.~~

32 ~~(G) A description of any order, judgment, or decree that is final~~  
33 ~~as to the issuing entity of any state, federal, or foreign country~~  
34 ~~governmental agency or administrator, or of any state, federal, or~~  
35 ~~foreign country court of competent jurisdiction (i) revoking,~~  
36 ~~suspending, denying, or censuring for cause any license, permit,~~  
37 ~~or other authority of the issuer or of any director, officer, partner,~~  
38 ~~member, trustee, or person owning or controlling, directly or~~  
39 ~~indirectly, 10 percent or more of the outstanding interest or equity~~  
40 ~~securities of the issuer, to engage in the securities, commodities,~~

1 franchise, insurance, real estate, or lending business or in the offer  
2 or sale of securities, commodities, franchises, insurance, real estate,  
3 or loans, (ii) permanently restraining, enjoining, barring,  
4 suspending, or censuring any such person from engaging in or  
5 continuing any conduct, practice, or employment in connection  
6 with the offer or sale of securities, commodities, franchises,  
7 insurance, real estate, or loans, (iii) convicting any such person  
8 of, or pleading nolo contendere by any such person to, any felony  
9 or misdemeanor involving a security, commodity, franchise,  
10 insurance, real estate, or loan, or any aspect of the securities,  
11 commodities, franchise, insurance, real estate, or lending business,  
12 or involving dishonesty, fraud, deceit, embezzlement, fraudulent  
13 conversion, or misappropriation of property, or (iv) holding any  
14 such person liable in a civil action involving breach of a fiduciary  
15 duty, fraud, deceit, embezzlement, fraudulent conversion, or  
16 misappropriation of property. This subparagraph does not apply  
17 to any order, judgment, or decree that has been vacated, overturned,  
18 or is more than 10 years old.

19 (H) Notice of the purchaser's right to rescind or cancel the  
20 investment and receive a refund pursuant to Section 25508.5.

21 (I) The name, address, and telephone number of the issuing  
22 insurance company, and the name, address, and telephone number  
23 of the state or foreign country regulator of the insurance company.

24 (J) The total face value of the insurance policy and the  
25 percentage of the insurance policy the purchaser will own.

26 (K) The insurance policy number, issue date, and type.

27 (L) If a group insurance policy, the name, address, and telephone  
28 number of the group, and, if applicable, the material terms and  
29 conditions of converting the policy to an individual policy,  
30 including the amount of increased premiums.

31 (M) If a term insurance policy, the term and the name, address,  
32 and telephone number of the person who will be responsible for  
33 renewing the policy if necessary.

34 (N) That the insurance policy is beyond the state statute for  
35 contestability and the reason therefor.

36 (O) The insurance policy premiums and terms of premium  
37 payments.

38 (P) The amount of the purchaser's moneys that will be set aside  
39 to pay premiums.

1     ~~(Q) The name, address, and telephone number of the person~~  
2     ~~who will be the insurance policy owner and the person who will~~  
3     ~~be responsible for paying premiums.~~

4     ~~(R) The date on which the purchaser will be required to pay~~  
5     ~~premiums and the amount of the premium, if known.~~

6     ~~(S) A statement to the effect that any projected rate of return to~~  
7     ~~the purchaser from the purchase of a viatical or life settlement~~  
8     ~~contract or a fractionalized or pooled interest therein is based on~~  
9     ~~an estimated life expectancy for the person insured under the life~~  
10    ~~insurance policy; that the return on the purchase may vary~~  
11    ~~substantially from the expected rate of return based upon the actual~~  
12    ~~life expectancy of the insured that may be less than, equal to, or~~  
13    ~~may greatly exceed the estimated life expectancy; and that the rate~~  
14    ~~of return would be higher if the actual life expectancy were less~~  
15    ~~than, and lower if the actual life expectancy were greater than the~~  
16    ~~estimated life expectancy of the insured at the time the viatical or~~  
17    ~~life settlement contract was closed.~~

18    ~~(T) A statement that the purchaser should consult with his or~~  
19    ~~her tax adviser regarding the tax consequences of the purchase of~~  
20    ~~the viatical or life settlement contract or fractionalized or pooled~~  
21    ~~interest therein and, if the purchaser is using retirement funds or~~  
22    ~~accounts for that purchase, whether or not any adverse tax~~  
23    ~~consequences might result from the use of those funds for the~~  
24    ~~purchase of that investment.~~

25    ~~(U) Any other information as may be prescribed by rule of the~~  
26    ~~commissioner.~~

27    ~~SEC. 22. Section 25206 of the Corporations Code is amended~~  
28    ~~to read:~~

29    ~~25206. A broker licensed by the Real Estate Commissioner is~~  
30    ~~exempt from the provisions of Section 25210 when engaged in~~  
31    ~~transactions in any interest in any general or limited partnership;~~  
32    ~~joint venture, unincorporated association, or similar organization~~  
33    ~~(but not a corporation) owned beneficially by no more than 100~~  
34    ~~persons and formed for the sole purpose of, and engaged solely~~  
35    ~~in, investment in or gain from an interest in real property, including,~~  
36    ~~but not limited to, a sale, exchange, trade, or development. An~~  
37    ~~interest held by spouses shall be considered held by one person~~  
38    ~~for the purposes of this section.~~

39    ~~SEC. 23. Section 21100 of the Education Code is amended to~~  
40    ~~read:~~

1     ~~21100. Any person desiring in his or her lifetime to promote~~  
2     ~~the public welfare by founding, endowing, and maintaining within~~  
3     ~~this state a university, college, school, seminary of learning,~~  
4     ~~mechanical institute, museum, botanic garden, public park, or~~  
5     ~~gallery of art, or any or all thereof, may, for such purposes, by~~  
6     ~~grant in writing convey to a trustee, or any number of trustees,~~  
7     ~~named in the grant, and to their successors, any property, real or~~  
8     ~~personal, belonging to him or her and situated within this state. If~~  
9     ~~he or she is married and the property is community property, then~~  
10    ~~both spouses shall join in the grant.~~

11    SEC. 24. ~~Section 24803 of the Education Code is amended to~~  
12    ~~read:~~

13    ~~24803. (a) If any benefit is payable by a district retirement~~  
14    ~~system to the estate of a deceased person, whether because the~~  
15    ~~estate is the beneficiary of the person or because no beneficiary~~  
16    ~~was designated or because an allowance payable to the person had~~  
17    ~~accrued and remained unpaid at the date of the death, and the estate~~  
18    ~~would not be administered if no amount were due from the system,~~  
19    ~~then the benefit shall be paid directly without procuring letters of~~  
20    ~~administration to the surviving next of kin of the deceased, or the~~  
21    ~~guardians of the survivors' estates, share and share alike. The~~  
22    ~~payment shall be made in the same order in which the following~~  
23    ~~groups are listed:~~

24    ~~(1) Spouse.~~

25    ~~(2) Children and issue of deceased children by right of~~  
26    ~~representation.~~

27    ~~(3) Father and mother.~~

28    ~~(4) Brothers and sisters.~~

29    ~~(5) Nieces and nephews.~~

30    ~~(b) Payment may also be made to persons in the groups listed~~  
31    ~~in subdivision (a) to the extent those persons are the only~~  
32    ~~beneficiaries under the last will and testament of a deceased former~~  
33    ~~member of a district retirement system, without the probate of the~~  
34    ~~will.~~

35    SEC. 25. ~~Section 68062 of the Education Code is amended to~~  
36    ~~read:~~

37    ~~68062. In determining the place of residence the following~~  
38    ~~rules are to be observed:~~

39    ~~(a) There can only be one residence.~~

1     ~~(b) A residence is the place where one remains when not called~~  
2     ~~elsewhere for labor or other special or temporary purpose, and to~~  
3     ~~which he or she returns in seasons of repose.~~

4     ~~(c) A residence cannot be lost until another is gained.~~

5     ~~(d) The residence can be changed only by the union of act and~~  
6     ~~intent.~~

7     ~~(e) A man or woman may establish his or her residence. A~~  
8     ~~person's residence shall not be derivative from that of his or her~~  
9     ~~spouse.~~

10    ~~(f) The residence of the parent with whom an unmarried minor~~  
11    ~~child maintains his or her place of abode is the residence of the~~  
12    ~~unmarried minor child. When the minor lives with neither parent~~  
13    ~~his or her residence is that of the parent with whom he or she~~  
14    ~~maintained his or her last place of abode, provided the minor may~~  
15    ~~establish his or her residence when both parents are deceased and~~  
16    ~~a legal guardian has not been appointed.~~

17    ~~(g) The residence of an unmarried minor who has a parent living~~  
18    ~~cannot be changed by his or her own act, by the appointment of a~~  
19    ~~legal guardian, or by relinquishment of a parent's right of control.~~

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

24    ~~(i) The residence of an unmarried minor alien shall be derived~~  
25    ~~from his or her parents pursuant to the provisions of subdivisions~~  
26    ~~(f) and (g).~~

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

28    ~~917. (a) If a privilege is claimed on the ground that the matter~~  
29    ~~sought to be disclosed is a communication made in confidence in~~  
30    ~~the course of the lawyer-client, lawyer-referral service-client,~~  
31    ~~physician-patient, psychotherapist-patient, clergy-penitent, marital,~~  
32    ~~sexual—assault—counselor-victim, —domestic—violence~~  
33    ~~counselor-victim, or human trafficking caseworker-victim~~  
34    ~~relationship, the communication is presumed to have been made~~  
35    ~~in confidence and the opponent of the claim of privilege has the~~  
36    ~~burden of proof to establish that the communication was not~~  
37    ~~confidential.~~

38    ~~(b) A communication between persons in a relationship listed~~  
39    ~~in subdivision (a) does not lose its privileged character for the sole~~  
40    ~~reason that it is communicated by electronic means or because~~

1 persons involved in the delivery, facilitation, or storage of  
2 electronic communication may have access to the content of the  
3 communication.

4 (e) For purposes of this section, “electronic” has the same  
5 meaning provided in Section 1633.2 of the Civil Code.

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

7 980. Subject to Section 912 and except as otherwise provided  
8 in this article, a spouse (or his or her guardian or conservator when  
9 he or she has a guardian or conservator), whether or not a party,  
10 has a privilege during the marital relationship and afterwards to  
11 refuse to disclose, and to prevent another from disclosing, a  
12 communication if he or she claims the privilege and the  
13 communication was made in confidence between him or her and  
14 the other spouse while they were spouses.

15 SEC. 28. Section 14860 of the Financial Code is amended to  
16 read:

17 14860. Except as provided in this section and Part 2  
18 (commencing with Section 5100) of Division 5 of the Probate  
19 Code, no credit union shall exercise trust powers except upon  
20 qualifying as a trust company pursuant to Division 1 (commencing  
21 with Section 99).

22 (a) Notwithstanding any other provisions of law relating to trusts  
23 and trust authority, subject to the regulations of the commissioner,  
24 a credit union may act as a trustee or custodian, and may receive  
25 reasonable compensation for so acting, under any written trust  
26 instrument or custodial agreement created or organized in the  
27 United States which is a part of a pension, education, or medical  
28 plan for its members or groups or organizations of its members,  
29 which qualifies or has qualified for specific tax treatment under  
30 Section 220, 223, 401, 408, 408A, 457, or 530 of the Internal  
31 Revenue Code, Title 26 of the United States Code, or any deferred  
32 compensation plan for the benefit of the credit union’s employees;  
33 provided the funds received pursuant to these plans are invested  
34 as provided in Section 16040 of the Probate Code. All funds held  
35 by a credit union as trustee or in a custodial capacity shall be  
36 maintained in accordance with applicable laws and rules and  
37 regulations as may be promulgated by the Secretary of Labor, the  
38 Secretary of the Treasury, or any other authority exercising  
39 jurisdiction over the trust or custodial accounts. The credit union  
40 shall maintain individual records for each participant or beneficiary



1 that show in detail all transactions relating to the funds of each  
2 participant or beneficiary.

3 ~~The trust instrument or agreement shall provide for the~~  
4 ~~appointment of a successor trustee or custodian by a person,~~  
5 ~~committee, corporation, or organization other than the credit union~~  
6 ~~or any person acting in his or her capacity as a director, employee,~~  
7 ~~or agent of the credit union, upon notice from the credit union or~~  
8 ~~the commissioner that the credit union is unwilling or unable to~~  
9 ~~continue to act as trustee or custodian.~~

10 (b) ~~Shares may be issued in a revocable or irrevocable trust~~  
11 ~~subject to the following:~~

12 (1) ~~When shares are issued in a revocable trust, the settlor shall~~  
13 ~~be a member of the credit union issuing the shares in his or her~~  
14 ~~own right. If the trust has joint settlers, who are spouses, then only~~  
15 ~~one settlor need be a member of the credit union.~~

16 (2) ~~When shares are issued in an irrevocable trust, the settlor or~~  
17 ~~the beneficiary shall be a member of this credit union in his or her~~  
18 ~~own right. For purposes of this section, shares issued pursuant to~~  
19 ~~a pension plan authorized by this section shall be treated as an~~  
20 ~~irrevocable trust unless otherwise indicated in rules and regulations~~  
21 ~~issued by the commissioner.~~

22 (3) ~~This subdivision does not apply to trust accounts established~~  
23 ~~prior to the effective date of this subdivision.~~

24 SEC. 29. ~~Section 18220 of the Financial Code is amended to~~  
25 ~~read:~~

26 ~~18220. An industrial loan company shall not induce any spouses~~  
27 ~~jointly or severally, to become obligated, directly or contingently~~  
28 ~~or both, under more than one contract of loan at the same time,~~  
29 ~~with the result of obtaining a higher rate of charge than would~~  
30 ~~otherwise be permitted by this division.~~

31 SEC. 30. ~~Section 18523 of the Financial Code is amended to~~  
32 ~~read:~~

33 ~~18523. The following described thrift obligations will be~~  
34 ~~guaranteed by Guaranty Corporation in the amounts hereinafter~~  
35 ~~set forth below:~~

36 (a) ~~Single ownership investment certificates. Funds owned by~~  
37 ~~an individual and invested in the manner set forth below shall be~~  
38 ~~added together and guaranteed up to fifty thousand dollars~~  
39 ~~(\$50,000) in the aggregate.~~

- 1     ~~(1) Individual investment certificates (or investment certificates~~  
2 ~~of the marital community of which the individual is a member)~~  
3 ~~and invested in one or more investment certificates in his or her~~  
4 ~~own name shall be guaranteed up to fifty thousand dollars~~  
5 ~~(\$50,000) in the aggregate.~~
- 6     ~~(2) Funds owned by a principal and invested in one or more~~  
7 ~~investment certificates in the name or names of agents or nominees~~  
8 ~~shall be added to any individual investment certificates of the~~  
9 ~~principal and guaranteed up to fifty thousand dollars (\$50,000) in~~  
10 ~~the aggregate.~~
- 11    ~~(3) Investment certificates held by guardians, custodians, or~~  
12 ~~conservators for the benefit of their wards or for the benefit of a~~  
13 ~~minor under a Uniform Gifts to Minors Act and invested in one~~  
14 ~~or more investment certificates in the name of the guardian;~~  
15 ~~custodian, or conservator shall be added to any individual~~  
16 ~~investment certificates of the ward or minor and guaranteed up to~~  
17 ~~fifty thousand dollars (\$50,000) in the aggregate.~~
- 18    ~~(b) Testamentary investment certificates.~~
- 19    ~~(1) Funds owned by an individual and invested in a revocable~~  
20 ~~trust investment certificate, tentative trust investment certificate;~~  
21 ~~payable-on-death investment certificate, or similar investment~~  
22 ~~certificate evidencing an intention that on his or her death the funds~~  
23 ~~shall belong to his or her spouse, child or grandchild, shall be~~  
24 ~~guaranteed up to fifty thousand dollars (\$50,000) in the aggregate;~~  
25 ~~as to each such named beneficiary, separately from any other~~  
26 ~~investment certificates of the owner.~~
- 27    ~~(2) If the named beneficiary of such an investment certificate~~  
28 ~~is other than the owner's spouse, child or grandchild, the funds in~~  
29 ~~the investment certificate shall be added to any individual~~  
30 ~~investment certificates of such owner and guaranteed up to fifty~~  
31 ~~thousand dollars (\$50,000) in the aggregate, separately from the~~  
32 ~~individual investment certificates of the beneficiaries of the estate~~  
33 ~~or of the executor or administrator.~~
- 34    ~~(c) Investment certificates held by executors or administrators.~~  
35 ~~Funds of a decedent held in the name of the decedent or in the~~  
36 ~~name of the executor or administrator of his or her estate and~~  
37 ~~invested in one or more investment certificates shall be guaranteed~~  
38 ~~up to fifty thousand dollars (\$50,000) in the aggregate, separately~~  
39 ~~from the individual investment certificates of the beneficiaries of~~  
40 ~~the estate or of the executor or administrator.~~

1     ~~(d) Corporation or partnership investment certificates.~~  
2     ~~Investment certificates of a corporation or partnership engaged in~~  
3     ~~any independent activity shall be guaranteed up to fifty thousand~~  
4     ~~dollars (\$50,000) in the aggregate. An investment certificate of a~~  
5     ~~corporation or partnership not engaged in an independent activity~~  
6     ~~shall be deemed to be owned by the person or persons owning~~  
7     ~~such corporation or comprising such partnership and, for guarantee~~  
8     ~~purposes, the interest of each person in the investment certificate~~  
9     ~~shall be added to any other investment certificates individually~~  
10    ~~owned by such person and guaranteed up to fifty thousand dollars~~  
11    ~~(\$50,000) in the aggregate. The term “independent activity” means~~  
12    ~~any activity other than one directed solely at increasing guarantee~~  
13    ~~coverage under this chapter.~~

14    ~~(e) Unincorporated associations. Investment certificates of an~~  
15    ~~unincorporated association engaged in any independent activity~~  
16    ~~shall be guaranteed up to fifty thousand dollars (\$50,000) in the~~  
17    ~~aggregate. An investment certificate of an unincorporated~~  
18    ~~association not engaged in an independent activity shall be deemed~~  
19    ~~to be owned by the persons comprising such association and, for~~  
20    ~~guarantee purposes, the interest of each owner in the investment~~  
21    ~~certificate shall be added to any other investment certificates~~  
22    ~~individually owned by such person and guaranteed up to fifty~~  
23    ~~thousand dollars (\$50,000) in the aggregate.~~

24    ~~(f) Joint investment certificates.~~

25    ~~(1) Investment certificates owned jointly, whether as joint~~  
26    ~~tenants with right of survivorship, as tenants by the entireties, as~~  
27    ~~tenants in common, or by spouses as community property, shall~~  
28    ~~be guaranteed separately from investment certificates individually~~  
29    ~~owned by the co-owners.~~

30    ~~(2) A joint investment certificate shall be deemed to exist, for~~  
31    ~~purposes of guarantee of investment certificates, only if each~~  
32    ~~co-owner has personally executed an investment certificate~~  
33    ~~signature card and possesses redemption rights.~~

34    ~~(3) An investment certificate owned jointly which does not~~  
35    ~~qualify as a joint investment certificate for purposes of guarantee~~  
36    ~~of investment certificates shall be treated as owned by the named~~  
37    ~~persons as individuals and the actual ownership interest of each~~  
38    ~~such person in such investment certificate shall be added to any~~  
39    ~~other investment certificates individually owned by such person~~

1 and guaranteed up to fifty thousand dollars (\$50,000) in the  
2 aggregate.

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

6 (5) The interest of each co-owner in all joint investment  
7 certificates owned by different combinations of individuals shall  
8 then be added together and guaranteed up to fifty thousand dollars  
9 (\$50,000) in the aggregate.

10 (g) Trust investment certificates. All trust interests for the same  
11 beneficiary invested in investment certificates established pursuant  
12 to valid trust arrangements created by the same settlor (grantor)  
13 shall be added together and guaranteed up to fifty thousand dollars  
14 (\$50,000) in the aggregate, separately from other investment  
15 certificates of the trustee of such trust funds or the settlor or  
16 beneficiary of such trust arrangements.

17 (h) Thrift obligations withdrawn by checks that have not cleared  
18 a member's bank account at the time the commissioner has taken  
19 possession of the property and business of a member. The owner  
20 of the funds represented by such a check shall be recognized for  
21 all purposes of a claim for guaranteed thrift obligations to the same  
22 extent as if his or her name and interest were disclosed on the  
23 records of the member.

24 SEC. 31. Section 22327 of the Financial Code is amended to  
25 read:

26 22327. No licensee shall knowingly induce any borrower to  
27 split up or divide any loan with any other licensee. No licensee  
28 shall induce or permit any borrower to be or to become obligated  
29 directly or indirectly, or both, under more than one contract of loan  
30 at the same time with the same licensee for the purpose or with  
31 the result of obtaining a higher rate of charge than would otherwise  
32 be permitted by this article, except as otherwise required by the  
33 federal Equal Credit Opportunity Act (15 U.S.C. Sec. 1691 et seq.;  
34 Public Law 93-495) and Regulation B promulgated by the Board  
35 of Governors of the Federal Reserve System (12 C.F.R. 202 et  
36 seq.). For the purpose of this section, "borrower" includes any  
37 spouses, whether jointly or severally obligated.

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

1     ~~8552.3.—The commission may, in consultation with~~  
2 ~~representatives of the commercial herring roe fishery, and after~~  
3 ~~holding at least one public hearing, adopt regulations intended to~~  
4 ~~facilitate the transfer of herring permits, including, but not limited~~  
5 ~~to, regulations that would do the following:~~

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

8     ~~(b) Eliminate the point system for qualifying for a herring~~  
9 ~~permit.~~

10    ~~(c) Allow a herring permit to be passed from a parent to child,~~  
11 ~~or between spouses.~~

12    ~~SEC. 33.—Section 9359.9 of the Government Code is amended~~  
13 ~~to read:~~

14    ~~9359.9.—If a beneficiary is not designated, or if the estate is the~~  
15 ~~beneficiary and the estate would not be probated if no amount were~~  
16 ~~due from this system, all of the amount due by reason of the death~~  
17 ~~of a member or retired member, including retirement allowances~~  
18 ~~accrued but not received prior to death, shall be paid directly~~  
19 ~~without probate to the surviving next of kin of the deceased, or~~  
20 ~~the guardians of such survivors' estates, share and share alike.~~

21    ~~Such payment shall be made in the same order in which the~~  
22 ~~following groups are listed:~~

- 23    ~~1. Spouse,~~
- 24    ~~2. Children,~~
- 25    ~~3. Father and mother,~~
- 26    ~~4. Grandchildren,~~
- 27    ~~5. Brothers and sisters,~~
- 28    ~~6. Nieces and nephews.~~

29    ~~SEC. 34.—Section 9374 of the Government Code is amended~~  
30 ~~to read:~~

31    ~~9374.—Upon the death of a member before retirement (a) the~~  
32 ~~surviving spouse of the member, who has the care of unmarried~~  
33 ~~children, including stepchildren, of the member who are under 18~~  
34 ~~years of age, or are incapacitated because of disability which began~~  
35 ~~before and has continued without interruption after attainment of~~  
36 ~~that age, or if there is no such spouse, then (b) the guardian of~~  
37 ~~surviving unmarried children, including stepchildren, of the~~  
38 ~~member who are under 18 years of age or so incapacitated, if any,~~  
39 ~~or (c) the surviving spouse of the member, who does not qualify~~  
40 ~~under (a), if any, or if no such children under (b) or such spouse~~

1 under (c), then (d) each surviving parent of the member, shall be  
2 paid the following applicable survivor allowance, under the  
3 conditions stated and from contributions of the state:

4 (1) A widow or a widower who was married to the member  
5 prior to the occurrence of the injury or onset of the illness that  
6 resulted in death, and has the care of unmarried children, including  
7 stepchildren, of the deceased member under 18 years of age or so  
8 incapacitated, shall be paid three hundred sixty dollars (\$360) if  
9 there is one such child, or four hundred thirty dollars (\$430) per  
10 month if there are two or more such children. If there also are such  
11 children who are not in the care of the surviving spouse, the portion  
12 of the allowance payable under this paragraph, assuming that these  
13 children were in the care of the surviving spouse, which is in excess  
14 of one hundred eighty dollars (\$180) per month, shall be divided  
15 equally among all of those children and payments made to the  
16 spouse and other children, as the case may be.

17 (2) If there is no such surviving spouse, or if such surviving  
18 spouse dies or remarries, and if there are unmarried children,  
19 including stepchildren, of the deceased member under 18 years of  
20 age, or if there are such children not in the care of such spouse,  
21 such children shall be paid an allowance as follows:

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

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

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

30 (3) A surviving spouse who has attained or attains the age of  
31 62 years, and, regardless of the gender of the surviving spouse,  
32 who was married to such member prior to the occurrence of the  
33 injury or onset of the illness that resulted in death, and has not  
34 remarried subsequent to the member's death, shall be paid one  
35 hundred eighty dollars (\$180) per month. No allowance shall be  
36 paid under this subdivision, while the surviving spouse is receiving  
37 an allowance under subdivision (1) of this section, or while an  
38 allowance is being paid under subdivision (2)(c) of this section.  
39 The allowance paid under this subdivision shall be seventy dollars

1 ~~(\$70) per month while an allowance is being paid under subdivision~~  
2 ~~(2)(b) of this section.~~

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

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

14 ~~SEC. 35.— Section 21571 of the Government Code is amended~~  
15 ~~to read:~~

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

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

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

30 ~~(3) The surviving spouse of the member, who does not qualify~~  
31 ~~under paragraph (1).~~

32 ~~(4) Each surviving parent of the member.~~

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

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

1 ~~illness that resulted in death, and has the care of unmarried~~  
2 ~~children, including stepchildren, of the deceased member who are~~  
3 ~~under 22 years of age or are so incapacitated, shall be paid three~~  
4 ~~hundred sixty dollars (\$360) if there is one child or four hundred~~  
5 ~~thirty dollars (\$430) per month if there are two or more children.~~  
6 ~~If there also are children who are not in the care of the surviving~~  
7 ~~spouse, the portion of the allowance payable under this paragraph,~~  
8 ~~assuming that these children were in the care of the surviving~~  
9 ~~spouse, which is in excess of one hundred eighty dollars (\$180)~~  
10 ~~per month, shall be divided equally among all those children and~~  
11 ~~payments made to the spouse and other children, as the case may~~  
12 ~~be.~~

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

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

20 ~~(B) If there are two children, the children shall be paid three~~  
21 ~~hundred sixty dollars (\$360) per month divided equally between~~  
22 ~~them.~~

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

26 ~~(3) A surviving spouse who has attained or attains the age of~~  
27 ~~62 years and, with respect to that surviving spouse, who was either~~  
28 ~~continuously married to the member for at least one year prior to~~  
29 ~~death, or who was married to the member prior to the occurrence~~  
30 ~~of the injury or onset of the illness which resulted in death, shall~~  
31 ~~be paid one hundred eighty dollars (\$180) per month. No allowance~~  
32 ~~shall be paid under this paragraph, while the surviving spouse is~~  
33 ~~receiving an allowance under paragraph (1), or while an allowance~~  
34 ~~is being paid under subparagraph (C) of paragraph (2). The~~  
35 ~~allowance paid under this paragraph shall be seventy dollars (\$70)~~  
36 ~~per month while an allowance is being paid under subparagraph~~  
37 ~~(B) of paragraph (2).~~

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



1 and the children die or marry or, if not incapacitated, reach age  
2 22, each of the member's dependent parents who has attained or  
3 attains the age of 62, and who received at least one-half of his or  
4 her support from the member at the time of the member's death,  
5 shall be paid one hundred eighty dollars (\$180) per month.

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

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

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

14 (f) On and after the date determined by the board, all assets and  
15 liabilities of all contracting agencies subject to this section, and  
16 their employees, on account of benefits provided under this article  
17 shall be pooled into a single account, and a single employer rate  
18 shall be established to provide benefits under this section on  
19 account of members employed by a contracting agency that is  
20 subject to this section.

21 (g) 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 is projected to  
24 have a surplus in its 1959 survivor benefit account as of the date  
25 the assets and liabilities are first pooled, the surplus shall be applied  
26 to reduce its rate of contribution. If a contracting agency that is  
27 subject to this section is projected to have a deficit in its 1959  
28 survivor benefit account as of the date the assets and liabilities are  
29 first pooled, its rate of contribution shall be increased until the  
30 projected deficit is paid.

31 SEC. 36.—Section 21572 of the Government Code is amended  
32 to read:

33 21572. (a) In lieu of benefits provided in Section 21571, if the  
34 death benefit provided by Section 21532 is payable on account of  
35 a state member's death that occurs under circumstances other than  
36 those described in subparagraph (F) of paragraph (1) of subdivision  
37 (a) of Section 21530, or if an allowance under Section 21546 is  
38 payable, the payment pursuant to subdivision (b) shall be made in  
39 the following order of priority:

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

6     ~~(2) The guardian of surviving unmarried children, including~~  
7 ~~stepchildren, of the member who are under 22 years of age or are~~  
8 ~~so incapacitated.~~

9     ~~(3) The surviving spouse of the member who does not qualify~~  
10 ~~under paragraph (1).~~

11     ~~(4) Each surviving parent of the member.~~

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

17     ~~(1) A surviving spouse who was either continuously married to~~  
18 ~~the member for at least one year prior to death, or was married to~~  
19 ~~the member prior to the occurrence of the injury or onset of the~~  
20 ~~illness that resulted in death, and has the care of unmarried~~  
21 ~~children, including stepchildren, of the deceased member who are~~  
22 ~~under 22 years of age or are so incapacitated, shall be paid four~~  
23 ~~hundred fifty dollars (\$450) per month if there is one child or five~~  
24 ~~hundred thirty-eight dollars (\$538) per month if there are two or~~  
25 ~~more children. If there also are children who are not in the care of~~  
26 ~~the surviving spouse, the portion of the allowance payable under~~  
27 ~~this paragraph, assuming that these children were in the care of~~  
28 ~~the surviving spouse, that is in excess of two hundred twenty-five~~  
29 ~~dollars (\$225) per month, shall be divided equally among all those~~  
30 ~~children and payments made to the spouse and other children, as~~  
31 ~~the case may be.~~

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

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

1     ~~(B) If there are two children, the children shall be paid four~~  
2     ~~hundred fifty dollars (\$450) per month divided equally between~~  
3     ~~them.~~

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

7     ~~(3) A surviving spouse who has attained or attains the age of~~  
8     ~~62 years and, with respect to that surviving spouse, who was either~~  
9     ~~continuously married to the member for at least one year prior to~~  
10    ~~death, or was married to the member prior to the occurrence of the~~  
11    ~~injury or onset of the illness that resulted in death, shall be paid~~  
12    ~~two hundred twenty-five dollars (\$225) per month. No allowance~~  
13    ~~shall be paid under this paragraph while the surviving spouse is~~  
14    ~~receiving an allowance under paragraph (1) or while an allowance~~  
15    ~~is being paid under subparagraph (C) of paragraph (2). The~~  
16    ~~allowance paid under this paragraph shall be eighty-eight dollars~~  
17    ~~(\$88) per month while an allowance is being paid under~~  
18    ~~subparagraph (B) of paragraph (2).~~

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

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

31    ~~(d) This section shall apply to beneficiaries receiving 1959~~  
32    ~~survivor allowances on July 1, 1975, as well as to beneficiaries~~  
33    ~~with respect to the death of a state member occurring on or after~~  
34    ~~July 1, 1975.~~

35    ~~(e) This section shall apply, with respect to benefits payable on~~  
36    ~~and after July 1, 1981, to all members employed by a school~~  
37    ~~employer, and school safety members employed with a school~~  
38    ~~district or community college district as defined in subdivision (i)~~  
39    ~~of Section 20057, except that it shall not apply, without contract~~  
40    ~~amendment, with respect to safety members who became members~~

1 after July 1, 1981. All assets and liabilities of all school employers;  
2 and their employees, on account of benefits provided under this  
3 article shall be pooled into a single account, and a single employer  
4 rate shall be established to provide benefits under this section on  
5 account of all miscellaneous members employed by a school  
6 employer and all safety members who are members on July 1,  
7 1981.

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

10 (g) On and after January 1, 2000, all state members covered by  
11 this section shall be covered by the benefit provided under Section  
12 21574.7.

13 (h) On and after the date determined by the board, all assets and  
14 liabilities of all contracting agencies subject to this section, and  
15 their employees, on account of benefits provided under this article  
16 shall be pooled into a single account, and a single employer rate  
17 shall be established to provide benefits under this section on  
18 account of members employed by a contracting agency that is  
19 subject to this section.

20 (i) The rate of contribution of an employer subject to this section  
21 shall be figured using the term insurance valuation method. If a  
22 contracting agency that is subject to this section is projected to  
23 have a surplus in its 1959 survivor benefit account as of the date  
24 the assets and liabilities are first pooled, the surplus shall be applied  
25 to reduce its rate of contribution. If a contracting agency that is  
26 subject to this section is projected to have a deficit in its 1959  
27 survivor benefit account as of the date the assets and liabilities are  
28 first pooled, its rate of contribution shall be increased until the  
29 projected deficit is paid.

30 SEC. 37. Section 21573 of the Government Code is amended  
31 to read:

32 21573. (a) In lieu of benefits provided in Section 21571 or  
33 Section 21572, if the death benefit provided by Section 21532 is  
34 payable on account of a state member's death that occurs under  
35 circumstances other than those described in subparagraph (F) of  
36 paragraph (1) of subdivision (a) of Section 21530, or if an  
37 allowance under Section 21546 is payable, the payment pursuant  
38 to subdivision (b) shall be made in the following order of priority:

39 (1) The surviving spouse of the member who has the care of  
40 unmarried children, including stepchildren, of the member who

1 are under 22 years of age or are incapacitated because of a  
2 disability that began before and has continued without interruption  
3 after attainment of that age.

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

7 (3) The surviving spouse of the member who does not qualify  
8 under paragraph (1):

9 (4) Each surviving parent of the member.

10 (b) Regardless of the benefit provided by Section 21532 and of  
11 the beneficiary designated by the member under that section, or  
12 regardless of the allowance provided under Section 21546, the  
13 following applicable 1959 survivor allowance, under the conditions  
14 stated and from contributions of the state, shall be paid:

15 (1) A surviving spouse who was either continuously married to  
16 the member for at least one year prior to death, or who was married  
17 to the member prior to the occurrence of the injury or onset of the  
18 illness that resulted in death, and has the care of unmarried  
19 children, including stepchildren, of the deceased member who are  
20 under 22 years of age or are so incapacitated, shall be paid seven  
21 hundred dollars (\$700) per month if there is one child, or eight  
22 hundred forty dollars (\$840) per month if there are two or more  
23 children. If there also are children who are not in the care of the  
24 surviving spouse, the portion of the allowance payable under this  
25 paragraph, assuming that these children were in the care of the  
26 surviving spouse, that is in excess of three hundred fifty dollars  
27 (\$350) per month, shall be divided equally among all those children  
28 and payments made to the spouse and other children, as the case  
29 may be.

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

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

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

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

4     ~~(3) A surviving spouse who has attained or attains the age of~~  
5 ~~62 years, and, with respect to that surviving spouse, who was either~~  
6 ~~continuously married to the member for at least one year prior to~~  
7 ~~death, or who was married to the member prior to the occurrence~~  
8 ~~of the injury or onset of the illness that resulted in death, shall be~~  
9 ~~paid three hundred fifty dollars (\$350) per month. No allowance~~  
10 ~~shall be paid under this paragraph while the surviving spouse is~~  
11 ~~receiving an allowance under paragraph (1) or while an allowance~~  
12 ~~is being paid under subparagraph (C) of paragraph (2). The~~  
13 ~~allowance paid under this paragraph shall be one hundred forty~~  
14 ~~dollars (\$140) per month while an allowance is being paid under~~  
15 ~~subparagraph (B) of paragraph (2).~~

16     ~~(4) If there is no surviving spouse or surviving child who~~  
17 ~~qualifies for the 1959 survivor allowance, or if the surviving spouse~~  
18 ~~dies and there is no surviving child, or if the surviving spouse dies~~  
19 ~~and the children die or marry or, if not incapacitated, reach 22~~  
20 ~~years of age, each of the member's dependent parents who has~~  
21 ~~attained or attains the age of 62 years, and who received at least~~  
22 ~~one-half of his or her support from the member at the time of the~~  
23 ~~member's death, shall be paid three hundred fifty dollars (\$350)~~  
24 ~~per month.~~

25     ~~(e) "Stepchildren," for purposes of this section, shall include~~  
26 ~~only stepchildren of the member living with the member in a~~  
27 ~~regular parent-child relationship at the time of the death of the~~  
28 ~~member.~~

29     ~~(d) This section shall apply to beneficiaries of state members~~  
30 ~~whose death occurred before January 1, 1985. Where a surviving~~  
31 ~~spouse attained the age of 62 years prior to January 1, 1987,~~  
32 ~~entitlement shall exist retroactive to January 1, 1985, or to his or~~  
33 ~~her 62nd birthday, whichever is later. All assets and liabilities of~~  
34 ~~all state agencies and their employees on account of benefits~~  
35 ~~provided to beneficiaries specified in this subdivision shall be~~  
36 ~~pooled into a single account. The board shall transfer from the~~  
37 ~~reserve for 1959 survivor contributions retained in the retirement~~  
38 ~~fund an amount sufficient to pay the cost of the increased benefits~~  
39 ~~provided by this subdivision for beneficiaries of members who~~  
40 ~~died on or before December 31, 1984.~~

1     ~~(e) This section shall not apply to beneficiaries with respect to~~  
2 ~~the death of a state member, except as provided in subdivision (i);~~  
3 ~~occurring on or after January 1, 1985, unless provided for in a~~  
4 ~~memorandum of understanding reached pursuant to Section 3517.5;~~  
5 ~~or authorized by the Director of Personnel Administration for~~  
6 ~~classifications of state employees that are excluded from, or not~~  
7 ~~subject to, collective bargaining. The memorandum of~~  
8 ~~understanding adopting this section shall be controlling without~~  
9 ~~further legislative action, except that if those provisions of a~~  
10 ~~memorandum of understanding require the expenditure of funds,~~  
11 ~~those provisions shall not become effective unless approved by~~  
12 ~~the Legislature as provided by law.~~

13     ~~(f) This section shall apply, with respect to benefits payable on~~  
14 ~~and after January 1, 1985, to school members and to school safety~~  
15 ~~members, as defined in Section 20444. All assets and liabilities of~~  
16 ~~all school employers, and their employees, on account of benefits~~  
17 ~~provided under this article shall be pooled into a single account,~~  
18 ~~and a single employer rate shall be established to provide benefits~~  
19 ~~under this section on account of school members employed by a~~  
20 ~~school employer.~~

21     ~~(g) This section shall apply to members of a contracting agency~~  
22 ~~that, in its original contract or by amending its contract, first elects~~  
23 ~~effective on or after January 1, 1985, and prior to July 1, 2001, to~~  
24 ~~make this article applicable to local members employed by the~~  
25 ~~agency. On or after January 1, 1985, and prior to July 1, 2001,~~  
26 ~~contracting agencies already subject to Section 21571 or Section~~  
27 ~~21572 may elect by contract amendment to be subject to this~~  
28 ~~section. All assets and liabilities of all contracting agencies subject~~  
29 ~~to this section, and their employees, on account of benefits provided~~  
30 ~~under this article shall be pooled into a single account, and a single~~  
31 ~~employer rate shall be established to provide benefits under this~~  
32 ~~section on account of members employed by a contracting agency~~  
33 ~~that is subject to this section. Any public agency first contracting~~  
34 ~~with the board on or after January 1, 1994, and prior to July 1,~~  
35 ~~2001, or any contracting agency amending its contract to remove~~  
36 ~~exclusions of member classifications on or after January 1, 1994,~~  
37 ~~and prior to July 1, 2001, that has not, pursuant to Section 418 of~~  
38 ~~Title 42 of the United States Code, entered into an agreement with~~  
39 ~~the federal government for the coverage of its employees under~~  
40 ~~the federal system, shall be subject to this section.~~

1     ~~(h) 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 has a surplus in~~  
4 ~~its 1959 survivor benefit account as of the date the contracting~~  
5 ~~agency becomes subject to this section, the surplus shall be applied~~  
6 ~~to reduce its rate of contribution. If a contracting agency that is~~  
7 ~~subject to this section has a deficit in its 1959 survivor benefit~~  
8 ~~account as of the date the contracting agency becomes subject to~~  
9 ~~this section, its rate of contribution shall be increased until the~~  
10 ~~deficit is paid.~~

11     ~~(i) This section shall not apply to beneficiaries with respect to~~  
12 ~~the death of a state member employed by the California State~~  
13 ~~University occurring on or after January 1, 1988, unless provided~~  
14 ~~for in a memorandum of understanding reached pursuant to Chapter~~  
15 ~~12 (commencing with Section 3560) of Division 4 of Title 1, or~~  
16 ~~authorized by the Trustees of the California State University for~~  
17 ~~employees excluded from collective bargaining. The memorandum~~  
18 ~~of understanding shall be controlling without further legislative~~  
19 ~~action, except that if the provisions of a memorandum of~~  
20 ~~understanding require the expenditure of funds, the provisions~~  
21 ~~shall not become effective unless approved by the Legislature in~~  
22 ~~the annual Budget Act.~~

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

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

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

31     ~~SEC. 38. Section 1373.5 of the Health and Safety Code is~~  
32 ~~amended to read:~~

33     ~~1373.5. When spouses are both employed as employees, and~~  
34 ~~both have enrolled themselves and their eligible family members~~  
35 ~~under a group health care service plan provided by their respective~~  
36 ~~employers, and each spouse is covered as an employee under the~~  
37 ~~terms of the same master contract, each spouse may claim on his~~  
38 ~~or her behalf, or on behalf of his or her enrolled dependents, the~~  
39 ~~combined maximum contractual benefits to which an employee is~~  
40 ~~entitled under the terms of the master contract, not to exceed in~~



1 the aggregate 100 percent of the charge for the covered expense  
2 or service.

3 This section shall apply to every group plan entered into,  
4 delivered, amended, or renewed in this state on or after January  
5 1, 1978.

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

8 18080. Ownership registration and title to a manufactured  
9 home, mobilehome, commercial coach, or truck camper, or floating  
10 home subject to registration may be held by two or more coowners  
11 as follows:

12 (a) A manufactured home, mobilehome, commercial coach,  
13 truck camper, or floating home may be registered in the names of  
14 two or more persons as joint tenants. Upon the death of a joint  
15 tenant, the interest of the decedent shall pass to the survivor or  
16 survivors. The signature of each joint tenant or survivor or  
17 survivors, as the case may be, shall be required to transfer or  
18 encumber the title to the manufactured home, mobilehome,  
19 commercial coach, truck camper, or floating home.

20 (b) A manufactured home, mobilehome, commercial coach,  
21 truck camper, or floating home may be registered in the names of  
22 two or more persons as tenants in common. If the names of the  
23 tenants in common are separated by the word “and,” each tenant  
24 in common may transfer his or her individual interest in the  
25 manufactured home, mobilehome, commercial coach, truck camper,  
26 or floating home without the signature of the other tenant or tenants  
27 in common. However, the signature of each tenant in common  
28 shall be required to transfer full interest in the title to a new  
29 registered owner. If the names of the tenants in common are  
30 separated by the word “or,” any one of the tenants in common may  
31 transfer full interest in the title to the manufactured home,  
32 mobilehome, commercial coach, truck camper, or floating home  
33 to a new registered owner without the signature of the other tenant  
34 or tenants in common. The signature of each tenant in common is  
35 required in all cases to encumber the title to the manufactured  
36 home, mobilehome, commercial coach, truck camper, or floating  
37 home.

38 (c) A manufactured home, mobilehome, commercial coach,  
39 truck camper, or floating home may be registered as community  
40 property in the names of the spouses. The signature of each spouse

1 shall be required to transfer or encumber the title to the  
2 manufactured home, mobile home, commercial coach, truck camper,  
3 or floating home.

4 (d) All manufactured homes, mobile homes, commercial  
5 coaches, truck campers, and floating homes registered, on or before  
6 January 1, 1985, in the names of two or more persons as tenants  
7 in common, as provided in subdivision (b), shall be considered to  
8 be the same as if the names of the tenants in common were  
9 separated by the word “or,” as provided in subdivision (b).

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

12 25299.54. (a) Except as provided in subdivisions (b), (e), (d),  
13 (e), (g), and (h), an owner or operator, required to perform  
14 corrective action pursuant to Section 25296.10, or an owner or  
15 operator who, as of January 1, 1988, is required to perform  
16 corrective action, who has initiated this action in accordance with  
17 Division 7 (commencing with Section 13000) of the Water Code,  
18 who is undertaking corrective action in compliance with waste  
19 discharge requirements or other orders issued pursuant to Division  
20 7 (commencing with Section 13000) of the Water Code, or Chapter  
21 6.7 (commencing with Section 25280), may apply to the board for  
22 satisfaction of a claim filed pursuant to this article.

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

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

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

31 (2) The person did not initiate, on or before June 30, 1988, any  
32 corrective action in accordance with Division 7 (commencing with  
33 Section 13000) of the Water Code concerning the release, or the  
34 person did not, on or before June 30, 1988, initiate corrective action  
35 in accordance with Chapter 6.7 (commencing with Section 25280)  
36 or the person did not initiate action on or before June 30, 1988, to  
37 come into compliance with waste discharge requirements or other  
38 orders issued pursuant to Division 7 (commencing with Section  
39 13000) of the Water Code concerning the release.

1     ~~(d) An owner or operator who violates Section 25296.10 or a~~  
2 ~~corrective action order, directive, notification, or approval order~~  
3 ~~issued pursuant to this chapter, Chapter 6.7 (commencing with~~  
4 ~~Section 25280) of this code, or Division 7 (commencing with~~  
5 ~~Section 13000) of the Water Code, is liable for a corrective action~~  
6 ~~cost that results from the owner's or operator's violation and is~~  
7 ~~ineligible to file a claim pursuant to this section.~~

8     ~~(e) Notwithstanding this chapter, a person who owns a tank~~  
9 ~~located underground that is used to store petroleum may apply to~~  
10 ~~the board for satisfaction of a claim, and the board may pay the~~  
11 ~~claim pursuant to Section 25299.57 without making the finding~~  
12 ~~specified in paragraph (3) of subdivision (d) of Section 25299.57~~  
13 ~~if all of the following apply:~~

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

15             ~~(A) The tank is located at the residence of a person on property~~  
16 ~~used exclusively for residential purposes at the time of discovery~~  
17 ~~of the unauthorized release of petroleum.~~

18             ~~(B) The tank owner demonstrates that the tank is located on~~  
19 ~~property that, on and after January 1, 1985, is not used for~~  
20 ~~agricultural purposes, the tank is of a type specified in~~  
21 ~~subparagraph (B) of paragraph (1) of subdivision (y) of Section~~  
22 ~~25281, and the petroleum in the tank is used solely for the purposes~~  
23 ~~specified in subparagraph (B) of paragraph (1) of subdivision (y)~~  
24 ~~of Section 25281 on and after January 1, 1985.~~

25             ~~(2) The tank is not a tank described in subparagraph (A) of~~  
26 ~~paragraph (1) of subdivision (y) of Section 25281 and the tank is~~  
27 ~~not used on or after January 1, 1985, for the purposes specified in~~  
28 ~~that subparagraph.~~

29             ~~(3) The claimant has complied with Section 25299.31 and the~~  
30 ~~permit requirements of Chapter 6.7 (commencing with Section~~  
31 ~~25280), or the claimant is not subject to the requirements of those~~  
32 ~~provisions.~~

33         ~~(f) Whenever the board has authorized the prepayment of a~~  
34 ~~claim pursuant to Section 25299.57, and the amount of money~~  
35 ~~available in the fund is insufficient to pay the claim, the owner or~~  
36 ~~operator shall remain obligated to undertake the corrective action~~  
37 ~~in accordance with Section 25296.10.~~

38         ~~(g) The board shall not reimburse a claimant for any eligible~~  
39 ~~costs for which the claimant has been, or will be, compensated by~~  
40 ~~another person. This subdivision does not affect reimbursement~~

1 of a claimant from the fund under either of the following  
2 circumstances:

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

7 (2) An insurer has made payments on behalf of the claimant  
8 pursuant to an insurance contract and either of the following  
9 applies:

10 (A) The insurance contract explicitly coordinates insurance  
11 benefits with the fund and requires the claimant to do both of the  
12 following:

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

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

18 (B) The claimant received a letter of commitment prior to June  
19 30, 1999, for the occurrence and the claimant is required to  
20 reimburse the insurer for any costs paid by the insurer pending  
21 reimbursement of those costs by the fund.

22 (h) (1) Except as provided in paragraph (2), a person who  
23 purchases or otherwise acquires real property on which an  
24 underground storage tank or tank specified in subdivision (c) is  
25 situated shall not be reimbursed by the board for a cost attributable  
26 to an occurrence that commenced prior to the acquisition of the  
27 real property if both of the following conditions apply:

28 (A) The purchaser or acquirer knew, or in the exercise of  
29 reasonable diligence would have discovered, that an underground  
30 storage tank or tank specified in subdivision (c) was located on  
31 the real property being acquired.

32 (B) A person who owned the site or owned or operated an  
33 underground storage tank or tank specified in subdivision (c) at  
34 the site during or after the occurrence and prior to acquisition by  
35 the purchaser or acquirer would not have been eligible for  
36 reimbursement from the fund.

37 (2) Notwithstanding paragraph (1), if the claim is filed on or  
38 after January 1, 2003, the board may reimburse the eligible costs  
39 claimed by a person who purchases or otherwise acquires real  
40 property on which an underground storage tank or tank specified

1 in subdivision (c) is situated, if all of the following conditions  
2 apply:

3 (A) The claimant is the owner or operator of the underground  
4 storage tank or tank specified in subdivision (c) that had an  
5 occurrence that commenced prior to the owner's acquisition of the  
6 real property.

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

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

11 (3) If the board reimburses a claim pursuant to paragraph (2),  
12 a person specified in subparagraph (B) of paragraph (1), other than  
13 a person who is ineligible for reimbursement from the fund solely  
14 because the property was acquired from another person who was  
15 ineligible for reimbursement from the fund, shall be liable for the  
16 amount paid from the fund. The Attorney General, upon request  
17 of the board, shall bring a civil action to recover the liability  
18 imposed under this paragraph. All money recovered by the  
19 Attorney General under this paragraph shall be deposited in the  
20 fund.

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

24 (5) For purposes of this subdivision, the following definitions  
25 shall apply:

26 (A) "Affiliate" means a person who has one or more of the  
27 following relationships with another person:

28 (i) Familial relationship.

29 (ii) Fiduciary relationship.

30 (iii) A relationship of direct or indirect control or shared  
31 interests.

32 (B) Affiliates include, but are not limited to, any of the  
33 following:

34 (i) Parent corporation and subsidiary.

35 (ii) Subsidiaries that are owned by the same parent corporation.

36 (iii) Business entities involved in a reorganization, as defined  
37 in Section 181 of the Corporations Code.

38 (iv) Corporate officer and corporation.

39 (v) Shareholder that owns a controlling block of voting stock  
40 and the corporation.

- 1     (vi) ~~Partner and the partnership.~~  
2     (vii) ~~Member and a limited liability company.~~  
3     (viii) ~~Franchiser and franchisee.~~  
4     (ix) ~~Settlor, trustee, and beneficiary of a trust.~~  
5     (x) ~~Debtor and bankruptcy trustee or debtor-in-possession.~~  
6     (xi) ~~Principal and agent.~~  
7     (C) ~~“Familial relationship” means relationships between family~~  
8     ~~members, including, and limited to, a spouse, child, stepchild,~~  
9     ~~parent, grandparent, grandchild, brother, sister, stepbrother,~~  
10    ~~stepsister, stepmother, stepfather, mother-in-law, father-in-law,~~  
11    ~~brother-in-law, sister-in-law, daughter-in-law, son-in-law, and, if~~  
12    ~~related by blood, uncle, aunt, niece, or nephew.~~  
13    (D) ~~“Purchases or otherwise acquires real property” means the~~  
14    ~~acquisition of fee title ownership or the acquisition of the lessee’s~~  
15    ~~interest in a ground lease of real property on which one or more~~  
16    ~~underground storage tanks are located if the lease has an initial~~  
17    ~~original term, including unilateral extension or renewal rights, of~~  
18    ~~not less than 35 years.~~  
19    (i) ~~The Legislature finds and declares that the changes made to~~  
20    ~~subparagraph (A) of paragraph (1) of subdivision (c) by Chapter~~  
21    ~~1290 of the Statutes of 1992 are declaratory of existing law.~~  
22    (j) ~~The Legislature finds and declares that the amendment of~~  
23    ~~subdivisions (a) and (g) by Chapter 328 of the Statutes of 1999 is~~  
24    ~~declaratory of existing law.~~  
25    SEC. 41. ~~Section 32501 of the Health and Safety Code is~~  
26    ~~amended to read:~~  
27    32501. ~~Any person desiring in his or her lifetime to promote~~  
28    ~~the public welfare by founding, endowing, and having maintained~~  
29    ~~within this state a hospital for the relief of the sick, and for use as~~  
30    ~~a training school for nurses may, by grant in writing, convey to a~~  
31    ~~trustee named in the grant and to the successor of such trustee, any~~  
32    ~~of his or her property situated within this state. If he or she is~~  
33    ~~married and the property is community, both spouses shall join in~~  
34    ~~the grant.~~  
35    SEC. 42. ~~Section 10112 of the Insurance Code is amended to~~  
36    ~~read:~~  
37    10112. ~~Subject to Section 2459 of the Probate Code, in respect~~  
38    ~~to life or disability insurance, or annuity contracts (except as~~  
39    ~~provided in Sections 2500 to 2507, inclusive, of the Probate Code~~  
40    ~~and Section 3500 of the Probate Code and Chapter 4 (commencing~~

1 with Section 3600) of Part 8 of Division 4 of the Probate Code);  
2 heretofore or hereafter issued to or upon the life of any person not  
3 of the full age of 18 years for the benefit of such minor or for the  
4 benefit of the father, mother, spouse, child, brother, or sister, of  
5 such minor, or issued to such minor, subject to written consent of  
6 a parent or guardian, upon the life of any person in whom such  
7 minor has an insurable interest for the benefit of himself or such  
8 minor's father, mother, spouse, child, brother or sister, such minor  
9 shall not, by reason only of such minority, be deemed incompetent  
10 to contract for such insurance or annuity, or for the surrender  
11 thereof, or to exercise all contractual rights thereunder, or, subject  
12 to approval of a parent or guardian, to give a valid discharge for  
13 any benefit accruing or for any money payable thereunder;  
14 provided, that all such contracts made by a minor under the age  
15 of 16 years, as determined by the nearest birthday, shall have the  
16 written consent of a parent or guardian, and that the exercise of  
17 all contractual rights under such contracts, or the surrender thereof,  
18 or the giving of a valid discharge for any benefit accruing or money  
19 payable thereunder, in the case of a minor under the age of 16  
20 years, as determined by the nearest birthday, shall have the written  
21 consent of a parent or guardian.

22 All such contracts made by a minor not of the full age of 18  
23 years which may result in any personal liability for assessment  
24 shall have the written assumption of any such liability by a parent  
25 or guardian in consideration of the issuance of the contract. Such  
26 assumption shall be in a form approved by the commissioner,  
27 reasonably designed to inform the parent or guardian of the liability  
28 thus assumed.

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

35 SEC. 43. Section 10121.5 of the Insurance Code is amended  
36 to read:

37 10121.5. (a) When spouses are both employed as employees;  
38 and both have enrolled themselves and their eligible family  
39 members under a group policy of disability insurance provided by  
40 their respective employers, and each spouse is covered as an

1 employee under the terms of the same master policy, each spouse  
2 may claim on his or her behalf, or on behalf of his or her enrolled  
3 dependents, the combined maximum contractual benefits to which  
4 an employee is entitled under the terms of the master policy, not  
5 to exceed in the aggregate 100 percent of the charge for the covered  
6 expense or service.

7 (b) When spouses are both employed as employees, and both  
8 have enrolled themselves and their eligible family members under  
9 a self-insured employee welfare benefit plan provided by their  
10 respective employers, and each spouse is covered as an employee  
11 under the terms of the same master contract, each spouse may  
12 claim on his or her behalf, or on behalf of his or her enrolled  
13 dependents, the combined maximum contractual benefits to which  
14 an employee is entitled under the terms of the master contract, not  
15 to exceed in the aggregate 100 percent of the charge for the covered  
16 expense or service.

17 (c) This section shall apply to every group disability insurance  
18 policy and self-insured employee welfare benefit plan which is  
19 entered into, issued, delivered, amended, or renewed in this state  
20 on or after January 1, 1978.

21 SEC. 44. Section 10320 of the Insurance Code is amended to  
22 read:

23 10320. No policy of accident and sickness insurance shall be  
24 delivered or issued for delivery to any person in this State unless:

25 (a) The entire money and other considerations therefor are  
26 expressed therein; and

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

29 (c) It purports to insure only one person, except that a policy  
30 may insure, originally or by subsequent amendment, upon the  
31 application of the head of a family who shall be deemed the  
32 policyholder, any two or more eligible members of that family,  
33 including spouse, dependent children or any children under a  
34 specified age which shall not exceed 19 years and any other person  
35 dependent upon the policyholder; and

36 (d) The style, arrangement and over-all appearance of the policy  
37 give no undue prominence to any portion of the text, and unless  
38 every printed portion of the text of the policy and of any  
39 endorsements or attached papers is plainly printed in light-faced  
40 type of a style in general use, the size of which shall be uniform



1 and not less than 10-point with a lower case unspaced alphabet  
2 length not less than 120-point (the “text” shall include all printed  
3 matter except the name and address of the insurer, name or title  
4 of the policy, the brief description, if any, and captions and  
5 subcaptions); and

6 (e) The exceptions and reductions of indemnity are set forth in  
7 the policy and, except those which are set forth in Article 4a or 5a  
8 of this chapter, are printed, at the insurer’s option, either included  
9 with the benefit provision to which they apply, or under an  
10 appropriate caption such as “Exceptions,” or “Exceptions and  
11 Reductions”; provided, that if an exception or reduction specifically  
12 applies only to a particular benefit of the policy, a statement of  
13 such exception or reduction shall be included with the benefit  
14 provision to which it applies; and

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

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

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

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

32 SEC. 45.— Section 10493 of the Insurance Code is amended to  
33 read:

34 10493.— Any incorporated or unincorporated benefit and relief  
35 association organized before January 15, 1951, may procure a  
36 certificate of exemption from the commissioner if it complies with  
37 all of the following:

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

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

- 1     ~~(e) Any one of the following requirements as to membership~~  
2     ~~and purpose:~~
- 3     ~~(1) It is composed of and its membership limited to the~~  
4     ~~appointive officers and employees of a public school district or~~  
5     ~~districts and/or the pupils of any such district or districts, or of any~~  
6     ~~private school or schools.~~
- 7     ~~(2) It is composed of and its membership limited to the~~  
8     ~~appointive officers and employees of a municipal playground~~  
9     ~~system, or the systems of two or more municipalities united in a~~  
10    ~~league, federation or other association for the purpose of promoting~~  
11    ~~intercity competitions or other activities, and/or the participants~~  
12    ~~in dancing, recreational, sporting, educational, social and/or~~  
13    ~~theatrical activities sponsored and/or directed by such system or~~  
14    ~~systems and carried on through the use of any of the facilities of~~  
15    ~~such system or systems.~~
- 16    ~~(3) Its membership in this state is 1,000 or more and it is either~~  
17    ~~an organization of a purely religious or benevolent character or its~~  
18    ~~membership is limited to the members of such an organization.~~
- 19    ~~(4) It is composed of and its membership is limited to the~~  
20    ~~members of another organization which other organization is of a~~  
21    ~~purely religious or benevolent character and has a total membership~~  
22    ~~in this state of not less than 1,000.~~
- 23    ~~(5) It is a domestic organization, lodge, society or order which~~  
24    ~~prior to September 19, 1947, provided life or disability benefits~~  
25    ~~or both such benefits to its members and~~
- 26    ~~(A) Is of a charitable, benevolent or beneficent character or~~  
27    ~~becomes such within one year from September 4, 1951, and in~~  
28    ~~both instances is thereafter of such character, and~~
- 29    ~~(B) Operates in such a manner that the payment of such benefits~~  
30    ~~even though it be one of the express purposes of such organization,~~  
31    ~~lodge or order, is as a matter of fact incidental to its charitable,~~  
32    ~~benevolent or beneficent purposes or within one year from~~  
33    ~~September 4, 1951, operates in such a manner and in both instances~~  
34    ~~thereafter operates in such a manner.~~
- 35    ~~(6) Officers and employees of a common employer, and related~~  
36    ~~dependents of such officers and employees, comprising spouses~~  
37    ~~and unmarried dependent children under 19 years of age, and living~~  
38    ~~in the same household.~~
- 39    ~~(d) Pays a filing fee in the amount of seven hundred eight dollars~~  
40    ~~(\$708).~~

1     ~~SEC. 46.— Section 10494.6 of the Insurance Code is amended~~  
2     ~~to read:~~

3     ~~10494.6.— Any employer who qualifies for a certificate of~~  
4     ~~exemption under Section 10494.5 by virtue of which certificate~~  
5     ~~he or she maintains a plan for furnishing disability benefits to his~~  
6     ~~or her employees may, if he or she elects, make available for the~~  
7     ~~related dependents of his or her employees, comprising spouses~~  
8     ~~and unmarried dependent children living in the same household;~~  
9     ~~a supplemental plan of disability benefits containing any or all of~~  
10    ~~the following benefits, hospital, surgical and medical; provided;~~  
11   ~~that as to the supplemental plan the Insurance Commissioner finds~~  
12   ~~that all of the following exist:~~

13    ~~(a) The supplemental plan shall be separately stated, setting out~~  
14    ~~all of the provisions of coverage.~~

15    ~~(b) The plan shall set out the respective contributions of the~~  
16    ~~employer and employees. All contributions of employees received~~  
17    ~~or retained by the employer shall be trust funds and shall be~~  
18    ~~separately accounted for by the employer and may not inure to the~~  
19    ~~benefit of the employer in any manner whatsoever.~~

20    ~~(c) The plan permits the disabled individual a free choice of~~  
21    ~~physician and surgeon, or podiatrist in the case of those services~~  
22    ~~that are within the scope of practice of podiatric medicine, as~~  
23    ~~defined in Section 2472 of the Business and Professions Code,~~  
24    ~~and hospital.~~

25    ~~(d) The employer agrees to assume 50 percent of the cost of~~  
26    ~~maintaining the plan, and he or she further agrees to guarantee the~~  
27    ~~benefits if the contributions required for the supplementary benefits~~  
28    ~~are not sufficient to pay the cost of same. The funds necessary to~~  
29    ~~discharge the employer's 50 percent assumption shall be trust~~  
30    ~~funds and shall be separately accounted for by him or her.~~

31    ~~SEC. 47.— Section 3503 of the Labor Code is amended to read:~~

32    ~~3503.— No person is a dependent of any deceased employee~~  
33    ~~unless in good faith a member of the family or household of the~~  
34    ~~employee, or unless the person bears to the employee the relation~~  
35    ~~of spouse, child, posthumous child, adopted child or stepchild,~~  
36    ~~grandchild, father or mother, father-in-law or mother-in-law,~~  
37    ~~grandfather or grandmother, brother or sister, uncle or aunt,~~  
38    ~~brother-in-law or sister-in-law, or nephew or niece.~~

39    ~~SEC. 48.— Section 152.3 of the Penal Code is amended to read:~~

- 1     ~~152.3.—(a) Any person who reasonably believes that he or she~~  
2 ~~has observed the commission of any of the following offenses~~  
3 ~~where the victim is a child under the age of 14 years shall notify~~  
4 ~~a peace officer, as defined in Chapter 4.5 (commencing with~~  
5 ~~Section 830) of Title 3 of Part 2:~~  
6     ~~(1) Murder.~~  
7     ~~(2) Rape.~~  
8     ~~(3) A violation of paragraph (1) of subdivision (b) of Section~~  
9 ~~288 of the Penal Code.~~  
10    ~~(b) This section shall not be construed to affect privileged~~  
11 ~~relationships as provided by law.~~  
12    ~~(c) The duty to notify a peace officer imposed pursuant to~~  
13 ~~subdivision (a) is satisfied if the notification or an attempt to~~  
14 ~~provide notice is made by telephone or any other means.~~  
15    ~~(d) Failure to notify as required pursuant to subdivision (a) is a~~  
16 ~~misdemeanor and is punishable by a fine of not more than one~~  
17 ~~thousand five hundred dollars (\$1,500), by imprisonment in a~~  
18 ~~county jail for not more than six months, or by both that fine and~~  
19 ~~imprisonment.~~  
20    ~~(e) The requirements of this section shall not apply to the~~  
21 ~~following:~~  
22     ~~(1) A person who is related to either the victim or the offender,~~  
23 ~~including a spouse, parent, child, brother, sister, grandparent,~~  
24 ~~grandchild, or other person related by consanguinity or affinity.~~  
25     ~~(2) A person who fails to report based on a reasonable mistake~~  
26 ~~of fact.~~  
27     ~~(3) A person who fails to report based on a reasonable fear for~~  
28 ~~his or her own safety or for the safety of his or her family.~~  
29    ~~SEC. 49. Section 197 of the Penal Code is amended to read:~~  
30    ~~197. Homicide is also justifiable when committed by any person~~  
31 ~~in any of the following cases:~~  
32     ~~1. When resisting any attempt to murder any person, or to~~  
33 ~~commit a felony, or to do some great bodily injury upon any~~  
34 ~~person; or,~~  
35     ~~2. When committed in defense of habitation, property, or person,~~  
36 ~~against one who manifestly intends or endeavors, by violence or~~  
37 ~~surprise, to commit a felony, or against one who manifestly intends~~  
38 ~~and endeavors, in a violent, riotous or tumultuous manner, to enter~~  
39 ~~the habitation of another for the purpose of offering violence to~~  
40 ~~any person therein; or,~~

1     3. ~~When committed in the lawful defense of such person, or of~~  
2 ~~a spouse, parent, child, master, mistress, or servant of such person;~~  
3 ~~when there is reasonable ground to apprehend a design to commit~~  
4 ~~a felony or to do some great bodily injury, and imminent danger~~  
5 ~~of such design being accomplished; but such person, or the person~~  
6 ~~in whose behalf the defense was made, if he was the assailant or~~  
7 ~~engaged in mutual combat, must really and in good faith have~~  
8 ~~endeavored to decline any further struggle before the homicide~~  
9 ~~was committed; or;~~

10     4. ~~When necessarily committed in attempting, by lawful ways~~  
11 ~~and means, to apprehend any person for any felony committed, or~~  
12 ~~in lawfully suppressing any riot, or in lawfully keeping and~~  
13 ~~preserving the peace.~~

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

15     270e. ~~No other evidence shall be required to prove marriage~~  
16 ~~of spouses, or that a person is the lawful father or mother of a child~~  
17 ~~or children, than is or shall be required to prove such facts in a~~  
18 ~~civil action. In all prosecutions under either Section 270a or 270~~  
19 ~~of this code, Sections 970, 971, and 980 of the Evidence Code do~~  
20 ~~not apply, and both spouses shall be competent to testify to any~~  
21 ~~and all relevant matters, including the fact of marriage and the~~  
22 ~~parentage of a child or children. Proof of the abandonment and~~  
23 ~~nonsupport of a spouse, or of the omission to furnish necessary~~  
24 ~~food, clothing, shelter, or of medical attendance for a child or~~  
25 ~~children is prima facie evidence that such abandonment and~~  
26 ~~nonsupport or omission to furnish necessary food, clothing, shelter~~  
27 ~~or medical attendance is willful. In any prosecution under Section~~  
28 ~~270, it shall be competent for the people to prove nonaccess of~~  
29 ~~husband to wife or any other fact establishing nonpaternity of a~~  
30 ~~husband. In any prosecution pursuant to Section 270, the final~~  
31 ~~establishment of paternity or nonpaternity in another proceeding~~  
32 ~~shall be admissible as evidence of paternity or nonpaternity.~~

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

34     273.5. (a) ~~Any person who willfully inflicts corporal injury~~  
35 ~~resulting in a traumatic condition upon a victim described in~~  
36 ~~subdivision (b) is guilty of a felony, and upon conviction thereof~~  
37 ~~shall be punished by imprisonment in the state prison for two,~~  
38 ~~three, or four years, or in a county jail for not more than one year,~~  
39 ~~or by a fine of up to six thousand dollars (\$6,000), or by both that~~  
40 ~~fine and imprisonment.~~

- 1     ~~(b) Subdivision (a) shall apply if the victim is or was one or~~  
2 ~~more of the following:~~  
3     ~~(1) The offender's spouse or former spouse.~~  
4     ~~(2) The offender's cohabitant or former cohabitant.~~  
5     ~~(3) The offender's fiancé or fiancée, or someone with whom~~  
6 ~~the offender has, or previously had, an engagement or dating~~  
7 ~~relationship, as defined in paragraph (10) of subdivision (f) of~~  
8 ~~Section 243.~~  
9     ~~(4) The mother or father of the offender's child.~~  
10    ~~(e) Holding oneself out to be the spouse of the person with~~  
11 ~~whom one is cohabiting is not necessary to constitute cohabitation~~  
12 ~~as the term is used in this section.~~  
13    ~~(d) As used in this section, "traumatic condition" means a~~  
14 ~~condition of the body, such as a wound, or external or internal~~  
15 ~~injury, including, but not limited to, injury as a result of~~  
16 ~~strangulation or suffocation, whether of a minor or serious nature,~~  
17 ~~caused by a physical force. For purposes of this section,~~  
18 ~~"strangulation" and "suffocation" include impeding the normal~~  
19 ~~breathing or circulation of the blood of a person by applying~~  
20 ~~pressure on the throat or neck.~~  
21    ~~(e) For the purpose of this section, a person shall be considered~~  
22 ~~the father or mother of another person's child if the alleged male~~  
23 ~~parent is presumed the natural father under Sections 7611 and 7612~~  
24 ~~of the Family Code.~~  
25    ~~(f) (1) Any person convicted of violating this section for acts~~  
26 ~~occurring within seven years of a previous conviction under~~  
27 ~~subdivision (a), or subdivision (d) of Section 243, or Section 243.4,~~  
28 ~~244, 244.5, or 245, shall be punished by imprisonment in a county~~  
29 ~~jail for not more than one year, or by imprisonment in the state~~  
30 ~~prison for two, four, or five years, or by both imprisonment and a~~  
31 ~~fine of up to ten thousand dollars (\$10,000).~~  
32    ~~(2) Any person convicted of a violation of this section for acts~~  
33 ~~occurring within seven years of a previous conviction under~~  
34 ~~subdivision (e) of Section 243 shall be punished by imprisonment~~  
35 ~~in the state prison for two, three, or four years, or in a county jail~~  
36 ~~for not more than one year, or by a fine of up to ten thousand~~  
37 ~~dollars (\$10,000), or by both that imprisonment and fine.~~  
38    ~~(g) If probation is granted to any person convicted under~~  
39 ~~subdivision (a), the court shall impose probation consistent with~~  
40 ~~the provisions of Section 1203.097.~~

1     ~~(h) If probation is granted, or the execution or imposition of a~~  
2 ~~sentence is suspended, for any defendant convicted under~~  
3 ~~subdivision (a) who has been convicted of any prior offense~~  
4 ~~specified in subdivision (f), the court shall impose one of the~~  
5 ~~following conditions of probation:~~

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

11     ~~(2) If the defendant has suffered two or more prior convictions~~  
12 ~~within the previous seven years for a violation of any offense~~  
13 ~~specified in subdivision (f), it shall be a condition of probation, in~~  
14 ~~addition to the provisions contained in Section 1203.097, that he~~  
15 ~~or she be imprisoned in a county jail for not less than 60 days.~~

16     ~~(3) The court, upon a showing of good cause, may find that the~~  
17 ~~mandatory imprisonment required by this subdivision shall not be~~  
18 ~~imposed and shall state on the record its reasons for finding good~~  
19 ~~cause.~~

20     ~~(i) If probation is granted upon conviction of a violation of~~  
21 ~~subdivision (a), the conditions of probation may include, consistent~~  
22 ~~with the terms of probation imposed pursuant to Section 1203.097,~~  
23 ~~in lieu of a fine, one or both of the following requirements:~~

24     ~~(1) That the defendant make payments to a battered women's~~  
25 ~~shelter, up to a maximum of five thousand dollars (\$5,000);~~  
26 ~~pursuant to Section 1203.097.~~

27     ~~(2) (A) That the defendant reimburse the victim for reasonable~~  
28 ~~costs of counseling and other reasonable expenses that the court~~  
29 ~~finds are the direct result of the defendant's offense.~~

30     ~~(B) For any order to pay a fine, make payments to a battered~~  
31 ~~women's shelter, or pay restitution as a condition of probation~~  
32 ~~under this subdivision, the court shall make a determination of the~~  
33 ~~defendant's ability to pay. An order to make payments to a battered~~  
34 ~~women's shelter shall not be made if it would impair the ability~~  
35 ~~of the defendant to pay direct restitution to the victim or~~  
36 ~~court-ordered child support. If the injury to a married person is~~  
37 ~~caused in whole or in part by the criminal acts of his or her spouse~~  
38 ~~in violation of this section, the community property may not be~~  
39 ~~used to discharge the liability of the offending spouse for restitution~~  
40 ~~to the injured spouse, required by Section 1203.04, as operative~~

1 on or before August 2, 1995, or Section 1202.4, or to a shelter for  
2 costs with regard to the injured spouse and dependents, required  
3 by this section, until all separate property of the offending spouse  
4 is exhausted.

5 (j) Upon conviction under subdivision (a), the sentencing court  
6 shall also consider issuing an order restraining the defendant from  
7 any contact with the victim, which may be valid for up to 10 years,  
8 as determined by the court. It is the intent of the Legislature that  
9 the length of any restraining order be based upon the seriousness  
10 of the facts before the court, the probability of future violations,  
11 and the safety of the victim and his or her immediate family. This  
12 protective order may be issued by the court whether the defendant  
13 is sentenced to state prison or county jail, or if imposition of  
14 sentence is suspended and the defendant is placed on probation.

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

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

20 281. (a) Every person having a spouse living, who marries  
21 any other person, except in the cases specified in Section 282, is  
22 guilty of bigamy.

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

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

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

32 (a) To any person by reason of any former marriage whose  
33 spouse by such marriage has been absent for five successive years  
34 without being known to such person within that time to be living.

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

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

39 284. Every person who knowingly and willfully marries the  
40 spouse of another, in any case in which such spouse would be



1 punishable under the provisions of this chapter, is punishable by  
2 fine not less than five thousand dollars (\$5,000), or by  
3 imprisonment pursuant to subdivision (h) of Section 1170.

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

5 534. Every married person who falsely and fraudulently  
6 represents himself or herself as competent to sell or mortgage any  
7 real estate, to the validity of which sale or mortgage the assent or  
8 concurrence of his or her spouse is necessary, and under such  
9 representations willfully conveys or mortgages the same, is guilty  
10 of felony.

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

12 4002. (a) Persons committed on criminal process and detained  
13 for trial, persons convicted and under sentence, and persons  
14 committed upon civil process, shall not be kept or put in the same  
15 room, nor shall male and female prisoners, except spouses, sleep,  
16 dress or undress, bathe, or perform eliminatory functions in the  
17 same room. However, persons committed on criminal process and  
18 detained for trial may be kept or put in the same room with persons  
19 convicted and under sentence for the purpose of participating in  
20 supervised activities and for the purpose of housing, provided, that  
21 the housing occurs as a result of a classification procedure that is  
22 based upon objective criteria, including consideration of criminal  
23 sophistication, seriousness of crime charged, presence or absence  
24 of assaultive behavior, age, and other criteria that will provide for  
25 the safety of the prisoners and staff.

26 (b) Inmates who are held pending civil process under the  
27 sexually violent predator laws shall be held in administrative  
28 segregation. For purposes of this subdivision, administrative  
29 segregation means separate and secure housing that does not  
30 involve any deprivation of privileges other than what is necessary  
31 to protect the inmates and staff. Consistent with Section 1610, to  
32 the extent possible, the person shall continue in his or her course  
33 of treatment, if any. An alleged sexually violent predator held  
34 pending civil process may waive placement in secure housing by  
35 petitioning the court for a waiver. In order to grant the waiver, the  
36 court must find that the waiver is voluntary and intelligent, and  
37 that granting the waiver would not interfere with any treatment  
38 programming for the person requesting the waiver. A person  
39 granted a waiver shall be placed with inmates charged with similar

1 offenses or with similar criminal histories, based on the objective  
2 criteria set forth in subdivision (a).

3 ~~(e) Nothing in this section shall be construed to impose any~~  
4 ~~requirement upon a county to confine male and female prisoners~~  
5 ~~in the same or an adjoining facility or impose any duty upon a~~  
6 ~~county to establish or maintain programs which involve the joint~~  
7 ~~participation of male and female prisoners.~~

8 SEC. 57. Section 13700 of the Penal Code is amended to read:  
9 13700. As used in this title:

10 (a) ~~“Abuse” means intentionally or recklessly causing or~~  
11 ~~attempting to cause bodily injury, or placing another person in~~  
12 ~~reasonable apprehension of imminent serious bodily injury to~~  
13 ~~himself or herself, or another.~~

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

27 (c) ~~“Officer” means any officer or employee of a local police~~  
28 ~~department or sheriff’s office, and any peace officer of the~~  
29 ~~Department of the California Highway Patrol, the Department of~~  
30 ~~Parks and Recreation, the University of California Police~~  
31 ~~Department, or the California State University and College Police~~  
32 ~~Departments, as defined in Section 830.2, a peace officer of the~~  
33 ~~Department of General Services of the City of Los Angeles, as~~  
34 ~~defined in subdivision (c) of Section 830.31, a housing authority~~  
35 ~~patrol officer, as defined in subdivision (d) of Section 830.31, a~~  
36 ~~peace officer as defined in subdivisions (a) and (b) of Section~~  
37 ~~830.32, or a peace officer as defined in subdivision (a) of Section~~  
38 ~~830.33.~~

39 (d) ~~“Victim” means a person who is a victim of domestic~~  
40 ~~violence.~~

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

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

5 (a) A person who obtains or consents to a final decree or  
6 judgment of dissolution of marriage from the decedent or a final  
7 decree or judgment of annulment of their marriage, which decree  
8 or judgment is not recognized as valid in this state, unless they (1)  
9 subsequently participate in a marriage ceremony purporting to  
10 marry each to the other or (2) subsequently live together as spouses.

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

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

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

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

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

21 (b) A person who obtains or consents to a final decree or  
22 judgment of dissolution of marriage from the decedent or a final  
23 decree or judgment of annulment of their marriage, which decree  
24 or judgment is not recognized as valid in this state, unless they (1)  
25 subsequently participate in a marriage ceremony purporting to  
26 marry each to the other or (2) subsequently live together as spouses.

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

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

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

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

36 (b) Notwithstanding subdivision (a), spouses may agree in  
37 writing to divide their community property on the basis of a non  
38 pro rata division of the aggregate value of the community property  
39 or on the basis of a division of each individual item or asset of  
40 community property, or partly on each basis. Nothing in this

1 ~~subdivision shall be construed to require this written agreement~~  
2 ~~in order to permit or recognize a non pro rata division of~~  
3 ~~community property.~~

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

5 101. (a) Upon the death of a married person domiciled in this  
6 state, ~~one-half of the decedent's quasi-community property belongs~~  
7 ~~to the surviving spouse and the other half belongs to the decedent.~~

8 (b) ~~Notwithstanding subdivision (a), spouses may agree in~~  
9 ~~writing to divide their quasi-community property on the basis of~~  
10 ~~a non pro rata division of the aggregate value of the~~  
11 ~~quasi-community property, or on the basis of a division of each~~  
12 ~~individual item or asset of quasi-community property, or partly on~~  
13 ~~each basis. Nothing in this subdivision shall be construed to require~~  
14 ~~this written agreement in order to permit or recognize a non pro~~  
15 ~~rata division of quasi-community property.~~

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

17 103. ~~Except as provided by Section 224, if spouses die leaving~~  
18 ~~community or quasi-community property and it cannot be~~  
19 ~~established by clear and convincing evidence that one spouse~~  
20 ~~survived the other:~~

21 (a) ~~One-half of the community property and one-half of the~~  
22 ~~quasi-community property shall be administered or distributed, or~~  
23 ~~otherwise dealt with, as if one spouse had survived and as if that~~  
24 ~~half belonged to that spouse.~~

25 (b) ~~The other half of the community property and the other half~~  
26 ~~of the quasi-community property shall be administered or~~  
27 ~~distributed, or otherwise dealt with, as if the other spouse had~~  
28 ~~survived and as if that half belonged to that spouse.~~

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

30 2407. ~~This chapter applies to property owned by spouses as~~  
31 ~~community property only to the extent authorized by Part 6~~  
32 ~~(commencing with Section 3000).~~

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

34 5203. (a) Words in substantially the following form in a  
35 signature card, passbook, contract, or instrument evidencing an  
36 account, or words to the same effect, executed before, on, or after  
37 July 1, 1990, create the following accounts:

38 (1) Joint account: "This account or certificate is owned by the  
39 named parties. Upon the death of any of them, ownership passes  
40 to the survivor(s)."

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

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

8     ~~(4) Joint account of spouses with right of survivorship: “This~~  
9 ~~account or certificate is owned by the named parties, who are~~  
10 ~~spouses, and is presumed to be their community property. Upon~~  
11 ~~the death of either of them, ownership passes to the survivor.”~~

12     ~~(5) Community property account of spouses: “This account or~~  
13 ~~certificate is the community property of the named parties who~~  
14 ~~are spouses. The ownership during lifetime and after the death of~~  
15 ~~a spouse is determined by the law applicable to community~~  
16 ~~property generally and may be affected by a will.”~~

17     ~~(6) Tenancy in common account: “This account or certificate~~  
18 ~~is owned by the named parties as tenants in common. Upon the~~  
19 ~~death of any party, the ownership interest of that party passes to~~  
20 ~~the named pay-on-death payee(s) of that party or, if none, to the~~  
21 ~~estate of that party.”~~

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

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

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

37     ~~(b) Subdivision (a) does not cause a nonprobate transfer to fail~~  
38 ~~in any of the following cases:~~

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

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

3     ~~(3) A court order that the nonprobate transfer be maintained on~~  
4     ~~behalf of the former spouse is in effect at the time of the~~  
5     ~~transferor's death.~~

6     ~~(e) Where a nonprobate transfer fails by operation of this section,~~  
7     ~~the instrument making the nonprobate transfer shall be treated as~~  
8     ~~it would if the former spouse failed to survive the transferor.~~

9     ~~(d) Nothing in this section affects the rights of a subsequent~~  
10    ~~purchaser or encumbrancer for value in good faith who relies on~~  
11    ~~the apparent failure of a nonprobate transfer under this section or~~  
12    ~~who lacks knowledge of the failure of a nonprobate transfer under~~  
13    ~~this section.~~

14    ~~(e) As used in this section, "nonprobate transfer" means a~~  
15    ~~provision, other than a provision of a life insurance policy, of either~~  
16    ~~of the following types:~~

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

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

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

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

29    ~~(b) Subdivision (a) does not sever a joint tenancy in either of~~  
30    ~~the following cases:~~

31    ~~(1) The joint tenancy is not subject to severance by the decedent~~  
32    ~~at the time of the decedent's death.~~

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

35    ~~(e) Nothing in this section affects the rights of a subsequent~~  
36    ~~purchaser or encumbrancer for value in good faith who relies on~~  
37    ~~an apparent severance under this section or who lacks knowledge~~  
38    ~~of a severance under this section.~~

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

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

5     ~~6122. (a) Unless the will expressly provides otherwise, if after~~  
6 ~~executing a will the testator’s marriage is dissolved or annulled,~~  
7 ~~the dissolution or annulment revokes all of the following:~~

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

10    ~~(2) Any provision of the will conferring a general or special~~  
11 ~~power of appointment on the former spouse.~~

12    ~~(3) Any provision of the will nominating the former spouse as~~  
13 ~~executor, trustee, conservator, or guardian.~~

14    ~~(b) If any disposition or other provision of a will is revoked~~  
15 ~~solely by this section, it is revived by the testator’s remarriage to~~  
16 ~~the former spouse.~~

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

18    ~~(1) Property prevented from passing to a former spouse because~~  
19 ~~of the revocation passes as if the former spouse failed to survive~~  
20 ~~the testator.~~

21    ~~(2) Other provisions of the will conferring some power or office~~  
22 ~~on the former spouse shall be interpreted as if the former spouse~~  
23 ~~failed to survive the testator.~~

24    ~~(d) For purposes of this section, dissolution or annulment means~~  
25 ~~any dissolution or annulment which would exclude the spouse as~~  
26 ~~a surviving spouse within the meaning of Section 78. A decree of~~  
27 ~~legal separation which does not terminate the status of spouses is~~  
28 ~~not a dissolution for purposes of this section.~~

29    ~~(e) Except as provided in Section 6122.1, no change of~~  
30 ~~circumstances other than as described in this section revokes a~~  
31 ~~will.~~

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

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

37    ~~6227. (a) If after executing a California statutory will the~~  
38 ~~testator’s marriage is dissolved or annulled, the dissolution or~~  
39 ~~annulment revokes any disposition of property made by the will~~  
40 ~~to the former spouse and any nomination of the former spouse as~~

1 executor, trustee, guardian, or custodian made by the will. If any  
2 disposition or nomination is revoked solely by this section, it is  
3 revived by the testator's remarriage to the former spouse.

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

5 (1) Property prevented from passing to a former spouse because  
6 of the revocation passes as if the former spouse failed to survive  
7 the testator.

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

11 (c) For purposes of this section, dissolution or annulment means  
12 any dissolution or annulment that would exclude the spouse as a  
13 surviving spouse within the meaning of Section 78. A decree of  
14 legal separation which does not terminate the status of spouses is  
15 not a dissolution or annulment for purposes of this section.

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

23 SEC. 69. Section 6240 of the Probate Code is amended to read:  
24 6240. The following is the California Statutory Will form:

25  
26 **QUESTIONS AND ANSWERS ABOUT THIS CALIFORNIA**  
27 **STATUTORY WILL**  
28

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

34  
35 1. *What happens if I die without a Will?* If you die without a  
36 Will, what you own (your "assets") in your name alone will be  
37 divided among your spouse, domestic partner, children, or other  
38 relatives according to state law. The court will appoint a relative  
39 to collect and distribute your assets.



1     ~~2. What can a Will do for me?~~ In a Will you may designate  
2 who will receive your assets at your death. You may designate  
3 someone (called an “executor”) to appear before the court, collect  
4 your assets, pay your debts and taxes, and distribute your assets  
5 as you specify. You may nominate someone (called a “guardian”)  
6 to raise your children who are under age 18. You may designate  
7 someone (called a “custodian”) to manage assets for your children  
8 until they reach any age from 18 to 25.

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

12     ~~4. What is community property?~~ Can I give away my share in  
13 my Will? If you are married and you or your spouse earned money  
14 during your marriage from work and wages, that money (and the  
15 assets bought with it) is community property. Your Will can only  
16 give away your one-half of community property. Your Will cannot  
17 give away your spouse’s one-half of community property.

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

26     ~~6. Are there different kinds of Wills?~~ Yes. There are  
27 handwritten Wills, typewritten Wills, attorney-prepared Wills, and  
28 statutory Wills. All are valid if done precisely as the law requires.  
29 You should see a lawyer if you do not want to use this Statutory  
30 Will or if you do not understand this form.

31     ~~7. Who may use this Will?~~ This Will is based on California  
32 law. It is designed only for California residents. You may use this  
33 form if you are single, married, a member of a domestic  
34 partnership, or divorced. You must be age 18 or older and of sound  
35 mind.

36     ~~8. Are there any reasons why I should NOT use this Statutory~~  
37 ~~Will?~~ Yes. This is a simple Will. It is not designed to reduce death  
38 taxes or other taxes. Talk to a lawyer to do tax planning, especially  
39 if (i) your assets will be worth more than \$600,000 or the current  
40 amount excluded from estate tax under federal law at your death,

1 (ii) you own business-related assets, (iii) you want to create a trust  
2 fund for your children's education or other purposes, (iv) you own  
3 assets in some other state, (v) you want to disinherit your spouse,  
4 domestic partner, or descendants, or (vi) you have valuable interests  
5 in pension or profit-sharing plans. You should talk to a lawyer  
6 who knows about estate planning if this Will does not meet your  
7 needs. This Will treats most adopted children like natural children.  
8 You should talk to a lawyer if you have stepchildren or foster  
9 children whom you have not adopted.

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

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

21 11. *Where should I keep my Will?*— After you and the witnesses  
22 sign the Will, keep your Will in your safe deposit box or other safe  
23 place. You should tell trusted family members where your Will is  
24 kept.

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

38 13. *What can I do if I do not understand something in this Will?*—  
39 If there is anything in this Will you do not understand, ask a lawyer  
40 to explain it to you.

1     ~~14. What is an executor?~~ An “executor” is the person you name  
2 to collect your assets, pay your debts and taxes, and distribute your  
3 assets as the court directs. It may be a person or it may be a  
4 qualified bank or trust company.

5     ~~15. Should I require a bond?~~ You may require that an executor  
6 post a “bond.” A bond is a form of insurance to replace assets that  
7 may be mismanaged or stolen by the executor. The cost of the  
8 bond is paid from the estate’s assets.

9     ~~16. What is a guardian?~~ Do I need to designate one? If you  
10 have children under age 18, you should designate a guardian of  
11 their “persons” to raise them.

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

20     ~~18. Should I ask people if they are willing to serve before I~~  
21 ~~designate them as executor, guardian, or custodian?~~ Probably  
22 yes. Some people and banks and trust companies may not consent  
23 to serve or may not be qualified to act.

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

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

38     ~~21. What is a domestic partner?~~ You have a domestic partner  
39 if you have met certain legal requirements and filed a form entitled  
40 “Declaration of Domestic Partnership” with the Secretary of State.

1 Notwithstanding Section 299.6 of the Family Code, if you have  
2 not filed a Declaration of Domestic Partnership with the Secretary  
3 of State, you do not meet the required definition and should not  
4 use the section of the Statutory Will form that refers to domestic  
5 partners even if you have registered your domestic partnership  
6 with another governmental entity. If you are unsure if you have a  
7 domestic partner or if your domestic partnership meets the required  
8 definition, please contact the Secretary of State's office.

9  
10 INSTRUCTIONS

11  
12 1. ~~READ THE WILL.~~ Read the whole Will first. If you do not  
13 understand something, ask a lawyer to explain it to you.

14 2. ~~FILL IN THE BLANKS.~~ Fill in the blanks. Follow the  
15 instructions in the form carefully. Do not add any words to the  
16 Will (except for filling in blanks) or cross out any words.

17 3. ~~DATE AND SIGN THE WILL AND HAVE TWO WITNESSES~~  
18 ~~SIGN IT.~~ Date and sign the Will and have two witnesses sign it.  
19 You and the witnesses should read and follow the Notice to  
20 Witnesses found at the end of this Will.

21 \*You do not need to have this document notarized. Notarization  
22 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.

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.):

~~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.):~~

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.):

  
  


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 spouse dies~~  
4     ~~intestate leaving property that passes to the surviving spouse under~~  
5     ~~Section 6401, or dies testate and by his or her will devises all or~~  
6     ~~a part of his or her property to the surviving spouse, the property~~  
7     ~~passes to the survivor subject to the provisions of Chapter 2~~  
8     ~~(commencing with Section 13540) and Chapter 3 (commencing~~  
9     ~~with Section 13550), and no administration is necessary.~~

10    ~~SEC. 71. Section 13600 of the Probate Code is amended to~~  
11    ~~read:~~

12    ~~13600. (a) At any time after a spouse dies, the surviving spouse~~  
13    ~~or the guardian or conservator of the estate of the surviving spouse~~  
14    ~~may, without procuring letters of administration or awaiting probate~~  
15    ~~of the will, collect salary or other compensation owed by an~~  
16    ~~employer for personal services of the deceased spouse, including~~  
17    ~~compensation for unused vacation, not in excess of fifteen thousand~~  
18    ~~dollars (\$15,000) net.~~

19    ~~(b) Not more than fifteen thousand dollars (\$15,000) net in the~~  
20    ~~aggregate may be collected by or for the surviving spouse under~~  
21    ~~this chapter from all of the employers of the decedent.~~

22    ~~(c) For the purposes of this chapter, a guardian or conservator~~  
23    ~~of the estate of the surviving spouse may act on behalf of the~~  
24    ~~surviving spouse without authorization or approval of the court in~~  
25    ~~which the guardianship or conservatorship proceeding is pending.~~

26    ~~(d) The fifteen-thousand-dollar (\$15,000) net limitation set forth~~  
27    ~~in subdivisions (a) and (b) does not apply to the surviving spouse~~  
28    ~~or the guardian or conservator of the estate of the surviving spouse~~  
29    ~~of a firefighter or peace officer described in subdivision (a) of~~  
30    ~~Section 22820 of the Government Code.~~

31    ~~(e) On January 1, 2003, and on January 1 of each year thereafter,~~  
32    ~~the maximum net amount of salary or compensation payable under~~  
33    ~~subdivisions (a) and (b) to the surviving spouse or the guardian or~~  
34    ~~conservator of the estate of the surviving spouse may be adjusted~~  
35    ~~to reflect any increase in the cost of living occurring after January~~  
36    ~~1 of the immediately preceding year. The United States city average~~  
37    ~~of the "Consumer Price Index for All Urban Consumers," as~~  
38    ~~published by the United States Bureau of Labor Statistics, shall~~  
39    ~~be used as the basis for determining the changes in the cost of~~  
40    ~~living. The cost-of-living increase shall equal or exceed 1 percent~~

1 before any adjustment is made. The net amount payable may not  
2 be decreased as a result of the cost-of-living adjustment.

3 SEC. 72. Section 17021 of the Revenue and Taxation Code is  
4 amended to read:

5 17021. As used in this part, if the spouses therein referred to  
6 are divorced, wherever appropriate to the meaning of this part, the  
7 term “spouse” shall be read “former spouse.”

8 SEC. 73. Section 17039 of the Revenue and Taxation Code is  
9 amended to read:

10 17039. (a) Notwithstanding any provision in this part to the  
11 contrary, for the purposes of computing tax credits, the term “net  
12 tax” means the tax imposed under either Section 17041 or 17048  
13 plus the tax imposed under Section 17504 (relating to lump-sum  
14 distributions) less the credits allowed by Section 17054 (relating  
15 to personal exemption credits) and any amount imposed under  
16 paragraph (1) of subdivision (d) and paragraph (1) of subdivision  
17 (e) of Section 17560. Notwithstanding the preceding sentence, the  
18 “net tax” shall not be less than the tax imposed under Section  
19 17504 (relating to the separate tax on lump-sum distributions), if  
20 any. Credits shall be allowed against “net tax” in the following  
21 order:

22 (1) Credits that do not contain carryover or refundable  
23 provisions, except those described in paragraphs (4) and (5):

24 (2) Credits that contain carryover provisions but do not contain  
25 refundable provisions, except for those that are allowed to reduce  
26 “net tax” below the tentative minimum tax, as defined by Section  
27 17062.

28 (3) Credits that contain both carryover and refundable  
29 provisions:

30 (4) The minimum tax credit allowed by Section 17063 (relating  
31 to the alternative minimum tax):

32 (5) Credits that are allowed to reduce “net tax” below the  
33 tentative minimum tax, as defined by Section 17062.

34 (6) Credits for taxes paid to other states allowed by Chapter 12  
35 (commencing with Section 18001):

36 (7) Credits that contain refundable provisions but do not contain  
37 carryover provisions:

38 The order within each paragraph shall be determined by the  
39 Franchise Tax Board.

- 1     ~~(b) Notwithstanding the provisions of Sections 17061 (relating~~  
2 ~~to refunds pursuant to the Unemployment Insurance Code) and~~  
3 ~~19002 (relating to tax withholding), the credits provided in those~~  
4 ~~sections shall be allowed in the order provided in paragraph (6) of~~  
5 ~~subdivision (a).~~  
6     ~~(c) (1) Notwithstanding any other provision of this part, no tax~~  
7 ~~credit shall reduce the tax imposed under Section 17041 or 17048~~  
8 ~~plus the tax imposed under Section 17504 (relating to the separate~~  
9 ~~tax on lump-sum distributions) below the tentative minimum tax,~~  
10 ~~as defined by Section 17062, except the following credits:~~  
11     ~~(A) The credit allowed by Section 17052.2 (relating to teacher~~  
12 ~~retention tax credit).~~  
13     ~~(B) The credit allowed by former Section 17052.4 (relating to~~  
14 ~~solar energy).~~  
15     ~~(C) The credit allowed by former Section 17052.5 (relating to~~  
16 ~~solar energy, repealed on January 1, 1987).~~  
17     ~~(D) The credit allowed by former Section 17052.5 (relating to~~  
18 ~~solar energy, repealed on December 1, 1994).~~  
19     ~~(E) The credit allowed by Section 17052.12 (relating to research~~  
20 ~~expenses).~~  
21     ~~(F) The credit allowed by former Section 17052.13 (relating to~~  
22 ~~sales and use tax credit).~~  
23     ~~(G) The credit allowed by former Section 17052.15 (relating to~~  
24 ~~Los Angeles Revitalization Zone sales tax credit).~~  
25     ~~(H) The credit allowed by Section 17052.25 (relating to the~~  
26 ~~adoption costs credit).~~  
27     ~~(I) The credit allowed by Section 17053.5 (relating to the~~  
28 ~~renter's credit).~~  
29     ~~(J) The credit allowed by former Section 17053.8 (relating to~~  
30 ~~enterprise zone hiring credit).~~  
31     ~~(K) The credit allowed by former Section 17053.10 (relating to~~  
32 ~~Los Angeles Revitalization Zone hiring credit).~~  
33     ~~(L) The credit allowed by former Section 17053.11 (relating to~~  
34 ~~program area hiring credit).~~  
35     ~~(M) For each taxable year beginning on or after January 1, 1994,~~  
36 ~~the credit allowed by former Section 17053.17 (relating to Los~~  
37 ~~Angeles Revitalization Zone hiring credit).~~  
38     ~~(N) The credit allowed by Section 17053.33 (relating to targeted~~  
39 ~~tax area sales or use tax credit).~~

- 1     ~~(O) The credit allowed by Section 17053.34 (relating to targeted~~  
2 ~~tax area hiring credit).~~
- 3     ~~(P) The credit allowed by Section 17053.49 (relating to qualified~~  
4 ~~property).~~
- 5     ~~(Q) The credit allowed by Section 17053.70 (relating to~~  
6 ~~enterprise zone sales or use tax credit).~~
- 7     ~~(R) The credit allowed by Section 17053.74 (relating to~~  
8 ~~enterprise zone hiring credit).~~
- 9     ~~(S) The credit allowed by Section 17054 (relating to credits for~~  
10 ~~personal exemption).~~
- 11     ~~(T) The credit allowed by Section 17054.5 (relating to the credits~~  
12 ~~for a qualified joint custody head of household and a qualified~~  
13 ~~taxpayer with a dependent parent).~~
- 14     ~~(U) The credit allowed by Section 17054.7 (relating to the credit~~  
15 ~~for a senior head of household).~~
- 16     ~~(V) The credit allowed by former Section 17057 (relating to~~  
17 ~~clinical testing expenses).~~
- 18     ~~(W) The credit allowed by Section 17058 (relating to~~  
19 ~~low-income housing).~~
- 20     ~~(X) For taxable years beginning on or after January 1, 2014, the~~  
21 ~~credit allowed by Section 17059.2 (relating to GO-Biz California~~  
22 ~~Competes Credit).~~
- 23     ~~(Y) The credit allowed by Section 17061 (relating to refunds~~  
24 ~~pursuant to the Unemployment Insurance Code).~~
- 25     ~~(Z) Credits for taxes paid to other states allowed by Chapter 12~~  
26 ~~(commencing with Section 18001).~~
- 27     ~~(AA) The credit allowed by Section 19002 (relating to tax~~  
28 ~~withholding).~~
- 29     ~~(2) Any credit that is partially or totally denied under paragraph~~  
30 ~~(1) shall be allowed to be carried over and applied to the net tax~~  
31 ~~in succeeding taxable years, if the provisions relating to that credit~~  
32 ~~include a provision to allow a carryover when that credit exceeds~~  
33 ~~the net tax.~~
- 34     ~~(d) Unless otherwise provided, any remaining carryover of a~~  
35 ~~credit allowed by a section that has been repealed or made~~  
36 ~~inoperative shall continue to be allowed to be carried over under~~  
37 ~~the provisions of that section as it read immediately prior to being~~  
38 ~~repealed or becoming inoperative.~~
- 39     ~~(e) (1) Unless otherwise provided, if two or more taxpayers~~  
40 ~~(other than spouses) share in costs that would be eligible for a tax~~

1 credit allowed under this part, each taxpayer shall be eligible to  
2 receive the tax credit in proportion to his or her respective share  
3 of the costs paid or incurred.

4 (2) In the case of a partnership, the credit shall be allocated  
5 among the partners pursuant to a written partnership agreement in  
6 accordance with Section 704 of the Internal Revenue Code, relating  
7 to partner's distributive share.

8 (3) In the case of spouses who file separate returns, the credit  
9 may be taken by either or equally divided between them.

10 (f) Unless otherwise provided, in the case of a partnership, any  
11 credit allowed by this part shall be computed at the partnership  
12 level, and any limitation on the expenses qualifying for the credit  
13 or limitation upon the amount of the credit shall be applied to the  
14 partnership and to each partner.

15 (g) (1) With respect to any taxpayer that directly or indirectly  
16 owns an interest in a business entity that is disregarded for tax  
17 purposes pursuant to Section 23038 and any regulations thereunder,  
18 the amount of any credit or credit carryforward allowable for any  
19 taxable year attributable to the disregarded business entity shall  
20 be limited in accordance with paragraphs (2) and (3):

21 (2) The amount of any credit otherwise allowed under this part,  
22 including any credit carryover from prior years, that may be applied  
23 to reduce the taxpayer's "net tax," as defined in subdivision (a),  
24 for the taxable year shall be limited to an amount equal to the  
25 excess of the taxpayer's regular tax (as defined in Section 17062),  
26 determined by including income attributable to the disregarded  
27 business entity that generated the credit or credit carryover, over  
28 the taxpayer's regular tax (as defined in Section 17062), determined  
29 by excluding the income attributable to that disregarded business  
30 entity. No credit shall be allowed if the taxpayer's regular tax (as  
31 defined in Section 17062), determined by including the income  
32 attributable to the disregarded business entity, is less than the  
33 taxpayer's regular tax (as defined in Section 17062), determined  
34 by excluding the income attributable to the disregarded business  
35 entity.

36 (3) If the amount of a credit allowed pursuant to the section  
37 establishing the credit exceeds the amount allowable under this  
38 subdivision in any taxable year, the excess amount may be carried  
39 over to subsequent taxable years pursuant to subdivisions (c) and  
40 (d):

1     ~~(h) (1) Unless otherwise specifically provided, in the case of a~~  
2     ~~taxpayer that is a partner or shareholder of an eligible pass-thru~~  
3     ~~entity described in paragraph (2), any credit passed through to the~~  
4     ~~taxpayer in the taxpayer's first taxable year beginning on or after~~  
5     ~~the date the credit is no longer operative may be claimed by the~~  
6     ~~taxpayer in that taxable year, notwithstanding the repeal of the~~  
7     ~~statute authorizing the credit prior to the close of that taxable year.~~

8     ~~(2) For purposes of this subdivision, "eligible pass-thru entity"~~  
9     ~~means any partnership or "S" corporation that files its return on a~~  
10    ~~fiscal year basis pursuant to Section 18566, and that is entitled to~~  
11    ~~a credit pursuant to this part for the taxable year that begins during~~  
12    ~~the last year the credit is operative.~~

13    ~~(3) This subdivision shall apply to credits that become~~  
14    ~~inoperative on or after the operative date of the act adding this~~  
15    ~~subdivision.~~

16    ~~SEC. 74. Section 17045 of the Revenue and Taxation Code is~~  
17    ~~amended to read:~~

18    ~~17045. In the case of a joint return of a married couple under~~  
19    ~~Section 18521, the tax imposed by Section 17041 shall be twice~~  
20    ~~the tax which would be imposed if the taxable income were cut in~~  
21    ~~half.~~

22    ~~For purposes of this section, a return of a surviving spouse (as~~  
23    ~~defined in Section 17046) shall be treated as a joint return of a~~  
24    ~~married couple.~~

25    ~~SEC. 75. Section 17053.5 of the Revenue and Taxation Code~~  
26    ~~is amended to read:~~

27    ~~17053.5. (a) (1) For a qualified renter, there shall be allowed~~  
28    ~~a credit against his or her "net tax," as defined in Section 17039.~~  
29    ~~The amount of the credit shall be as follows:~~

30    ~~(A) For married couples filing joint returns, heads of household,~~  
31    ~~and surviving spouses, as defined in Section 17046, the credit shall~~  
32    ~~be equal to one hundred twenty dollars (\$120) if adjusted gross~~  
33    ~~income is fifty thousand dollars (\$50,000) or less.~~

34    ~~(B) For other individuals, the credit shall be equal to sixty dollars~~  
35    ~~(\$60) if adjusted gross income is twenty-five thousand dollars~~  
36    ~~(\$25,000) or less.~~

37    ~~(2) Except as provided in subdivision (b), a married couple shall~~  
38    ~~receive but one credit under this section. If the spouses file separate~~  
39    ~~returns, the credit may be taken by either or equally divided~~  
40    ~~between them, except as follows:~~



1     ~~(A) If one spouse was a resident for the entire taxable year and~~  
2 ~~the other spouse was a nonresident for part or all of the taxable~~  
3 ~~year, the resident spouse shall be allowed one-half the credit~~  
4 ~~allowed to married persons and the nonresident spouse shall be~~  
5 ~~permitted one-half the credit allowed to married persons, prorated~~  
6 ~~as provided in subdivision (c).~~

7     ~~(B) If both spouses were nonresidents for part of the taxable~~  
8 ~~year, the credit allowed to married persons shall be divided equally~~  
9 ~~between them subject to the proration provided in subdivision (c).~~

10     ~~(b) For a married couple, if each spouse maintained a separate~~  
11 ~~place of residence and resided in this state during the entire taxable~~  
12 ~~year, each spouse will be allowed one-half the full credit allowed~~  
13 ~~to married persons provided in subdivision (a).~~

14     ~~(c) For purposes of this section, a “qualified renter” means an~~  
15 ~~individual who satisfies both of the following:~~

16         ~~(1) Was a resident of this state, as defined in Section 17014.~~

17         ~~(2) Rented and occupied premises in this state which constituted~~  
18 ~~his or her principal place of residence during at least 50 percent~~  
19 ~~of the taxable year.~~

20     ~~(d) “Qualified renter” does not include any of the following:~~

21         ~~(1) An individual who for more than 50 percent of the taxable~~  
22 ~~year rented and occupied premises that were exempt from property~~  
23 ~~taxes, except that an individual, otherwise qualified, is deemed a~~  
24 ~~qualified renter if he or she or his or her landlord pays possessory~~  
25 ~~interest taxes, or the owner of those premises makes payments in~~  
26 ~~lieu of property taxes that are substantially equivalent to property~~  
27 ~~taxes paid on properties of comparable market value.~~

28         ~~(2) An individual whose principal place of residence for more~~  
29 ~~than 50 percent of the taxable year is with another person who~~  
30 ~~claimed that individual as a dependent for income tax purposes.~~

31         ~~(3) An individual who has been granted or whose spouse has~~  
32 ~~been granted the homeowners’ property tax exemption during the~~  
33 ~~taxable year. This paragraph does not apply to an individual whose~~  
34 ~~spouse has been granted the homeowners’ property tax exemption~~  
35 ~~if each spouse maintained a separate residence for the entire taxable~~  
36 ~~year.~~

37     ~~(e) An otherwise qualified renter who is a nonresident for any~~  
38 ~~portion of the taxable year shall claim the credits set forth in~~  
39 ~~subdivision (a) at the rate of one-twelfth of those credits for each~~

1 full month that individual resided within this state during the  
2 taxable year.

3 (f) A person claiming the credit provided in this section shall,  
4 as part of that claim, and under penalty of perjury, furnish that  
5 information as the Franchise Tax Board prescribes on a form  
6 supplied by the board.

7 (g) The credit provided in this section shall be claimed on returns  
8 in the form as the Franchise Tax Board may from time to time  
9 prescribe.

10 (h) For purposes of this section, “premises” means a house or  
11 a dwelling unit used to provide living accommodations in a  
12 building or structure and the land incidental thereto, but does not  
13 include land only, unless the dwelling unit is a mobilehome. The  
14 credit is not allowed for any taxable year for the rental of land  
15 upon which a mobilehome is located if the mobilehome has been  
16 granted a homeowners’ exemption under Section 218 in that year.

17 (i) This section shall become operative on January 1, 1998, and  
18 applies to any taxable year beginning on or after January 1, 1998.

19 (j) For each taxable year beginning on or after January 1, 1999,  
20 the Franchise Tax Board shall recompute the adjusted gross income  
21 amounts set forth in subdivision (a). The computation shall be  
22 made as follows:

23 (1) The Department of Industrial Relations shall transmit  
24 annually to the Franchise Tax Board the percentage change in the  
25 California Consumer Price Index for all items from June of the  
26 prior calendar year to June of the current year, no later than August  
27 1 of the current calendar year.

28 (2) The Franchise Tax Board shall compute an inflation  
29 adjustment factor by adding 100 percent to the portion of the  
30 percentage change figure which is furnished pursuant to paragraph  
31 (1) and dividing the result by 100.

32 (3) The Franchise Tax Board shall multiply the amount in  
33 subparagraph (B) of paragraph (1) of subdivision (d) for the  
34 preceding taxable year by the inflation adjustment factor  
35 determined in paragraph (2), and round off the resulting products  
36 to the nearest one dollar (\$1).

37 (4) In computing the amounts pursuant to this subdivision, the  
38 amounts provided in subparagraph (A) of paragraph (1) of  
39 subdivision (a) shall be twice the amount provided in subparagraph  
40 (B) of paragraph (1) of subdivision (a).

1     ~~SEC. 76.— Section 17054 of the Revenue and Taxation Code is~~  
2     ~~amended to read:~~

3     ~~17054. In the case of individuals, the following credits for~~  
4     ~~personal exemption may be deducted from the tax imposed under~~  
5     ~~Section 17041 or 17048, less any increases imposed under~~  
6     ~~paragraph (1) of subdivision (d) or paragraph (1) of subdivision~~  
7     ~~(e), or both, of Section 17560.~~

8     ~~(a) In the case of a single individual, a head of household, or a~~  
9     ~~married individual making a separate return, a credit of fifty-two~~  
10    ~~dollars (\$52).~~

11    ~~(b) In the case of a surviving spouse (as defined in Section~~  
12    ~~17046), or a married couple making a joint return, a credit of one~~  
13    ~~hundred four dollars (\$104). If one spouse was a resident for the~~  
14    ~~entire taxable year and the other spouse was a nonresident for all~~  
15    ~~or any portion of the taxable year, the personal exemption shall~~  
16    ~~be divided equally.~~

17    ~~(c) In addition to any other credit provided in this section, in~~  
18    ~~the case of an individual who is 65 years of age or over by the end~~  
19    ~~of the taxable year, a credit of fifty-two dollars (\$52).~~

20    ~~(d) (1) A credit of two hundred twenty-seven dollars (\$227)~~  
21    ~~for each dependent (as defined in Section 17056) for whom an~~  
22    ~~exemption is allowable under Section 151(e) of the Internal~~  
23    ~~Revenue Code, relating to additional exemption for dependents.~~  
24    ~~The credit allowed under this subdivision for taxable years~~  
25    ~~beginning on or after January 1, 1999, shall not be adjusted~~  
26    ~~pursuant to subdivision (i) for any taxable year beginning before~~  
27    ~~January 1, 2000.~~

28    ~~(2) (A) For taxable years beginning on or after January 1, 2015,~~  
29    ~~a credit shall not be allowed under paragraph (1) with respect to~~  
30    ~~any individual unless the identification number, as defined in~~  
31    ~~Section 6109 of the Internal Revenue Code, of that individual is~~  
32    ~~included on the return claiming the credit.~~

33    ~~(B) A disallowance of a credit due to the omission of a correct~~  
34    ~~identification number required under this paragraph, may be~~  
35    ~~assessed by the Franchise Tax Board in the same manner as is~~  
36    ~~provided by Section 19051 in the case of a mathematical error~~  
37    ~~appearing on the return. A claimant shall have the right to claim~~  
38    ~~a credit or refund of adjusted amounts within the period provided~~  
39    ~~in Section 19306, 19307, 19308, or 19311, whichever period~~  
40    ~~expires later.~~

- 1     ~~(3) (A) For taxable years beginning on or after January 1, 2009,~~  
2     ~~the credit allowed under paragraph (1) for each dependent shall~~  
3     ~~be equal to the credit allowed under subdivision (a). This~~  
4     ~~subparagraph shall cease to be operative for taxable years beginning~~  
5     ~~on or after January 1, 2011, unless the Director of Finance makes~~  
6     ~~the notification pursuant to Section 99040 of the Government~~  
7     ~~Code, in which case this subparagraph shall cease to be operative~~  
8     ~~for taxable years beginning on or after January 1, 2013.~~
- 9     ~~(B) For taxable years that subparagraph (A) ceases to be~~  
10    ~~operative, the credit allowed under paragraph (1) for each~~  
11    ~~dependent shall be equal to the amount that would be allowed if~~  
12    ~~subparagraph (A) had never been operative.~~
- 13    ~~(e) A credit for personal exemption of fifty-two dollars (\$52)~~  
14    ~~for the taxpayer if he or she is blind at the end of his or her taxable~~  
15    ~~year.~~
- 16    ~~(f) A credit for personal exemption of fifty-two dollars (\$52)~~  
17    ~~for the spouse of the taxpayer if a separate return is made by the~~  
18    ~~taxpayer, and if the spouse is blind and, for the calendar year in~~  
19    ~~which the taxable year of the taxpayer begins, has no gross income~~  
20    ~~and is not the dependent of another taxpayer.~~
- 21    ~~(g) For the purposes of this section, an individual is blind only~~  
22    ~~if either (1) his or her central visual acuity does not exceed 20/200~~  
23    ~~in the better eye with correcting lenses, or (2) his or her visual~~  
24    ~~acuity is greater than 20/200 but is accompanied by a limitation~~  
25    ~~in the fields of vision such that the widest diameter of the visual~~  
26    ~~field subtends an angle no greater than 20 degrees.~~
- 27    ~~(h) In the case of an individual with respect to whom a credit~~  
28    ~~under this section is allowable to another taxpayer for a taxable~~  
29    ~~year beginning in the calendar year in which the individual's~~  
30    ~~taxable year begins, the credit amount applicable to that individual~~  
31    ~~for that individual's taxable year is zero.~~
- 32    ~~(i) For each taxable year beginning on or after January 1, 1989,~~  
33    ~~the Franchise Tax Board shall compute the credits prescribed in~~  
34    ~~this section. That computation shall be made as follows:~~
- 35    ~~(1) The California Department of Industrial Relations shall~~  
36    ~~transmit annually to the Franchise Tax Board the percentage change~~  
37    ~~in the California Consumer Price Index for all items from June of~~  
38    ~~the prior calendar year to June of the current calendar year, no~~  
39    ~~later than August 1 of the current calendar year.~~

1     ~~(2) The Franchise Tax Board shall add 100 percent to the~~  
2     ~~percentage change figure which is furnished to them pursuant to~~  
3     ~~paragraph (1), and divide the result by 100.~~

4     ~~(3) The Franchise Tax Board shall multiply the immediately~~  
5     ~~preceding taxable year credits by the inflation adjustment factor~~  
6     ~~determined in paragraph (2), and round off the resulting products~~  
7     ~~to the nearest one dollar (\$1).~~

8     ~~(4) In computing the credits pursuant to this subdivision, the~~  
9     ~~credit provided in subdivision (b) shall be twice the credit provided~~  
10    ~~in subdivision (a).~~

11    ~~SEC. 77. Section 17077 of the Revenue and Taxation Code is~~  
12    ~~amended to read:~~

13    ~~17077. Section 68 of the Internal Revenue Code, relating to~~  
14    ~~overall limitation on itemized deductions, shall apply, except as~~  
15    ~~otherwise provided.~~

16    ~~(a) "Six percent" shall be substituted for "3 percent" in Section~~  
17    ~~68(a)(1) of the Internal Revenue Code.~~

18    ~~(b) Section 68(b)(1) of the Internal Revenue Code shall not~~  
19    ~~apply and in lieu thereof the term "applicable amount" in each~~  
20    ~~place it appears in Section 68(a) of the Internal Revenue Code~~  
21    ~~means one hundred thousand dollars (\$100,000) in the case of a~~  
22    ~~single individual or a married individual filing a separate return;~~  
23    ~~one hundred fifty thousand dollars (\$150,000) in the case of a head~~  
24    ~~of household, and two hundred thousand dollars (\$200,000) in the~~  
25    ~~case of a surviving spouse or a married couple filing a joint return.~~

26    ~~(c) Section 68(b)(2) of the Internal Revenue Code, relating to~~  
27    ~~inflation adjustments, shall not apply. However, for any taxable~~  
28    ~~year beginning on or after January 1, 1992, the applicable amounts~~  
29    ~~specified in subdivision (b) shall be recomputed annually in the~~  
30    ~~same manner as the recomputation of income tax brackets under~~  
31    ~~subdivision (h) of Section 17041.~~

32    ~~(d) Section 68(f) of the Internal Revenue Code, relating to~~  
33    ~~phaseout of limitation, shall not apply.~~

34    ~~(e) Section 68(g) of the Internal Revenue Code, relating to~~  
35    ~~termination, shall not apply.~~

36    ~~SEC. 78. Section 17555 of the Revenue and Taxation Code is~~  
37    ~~amended to read:~~

38    ~~17555. In any case where spouses file separate returns, the~~  
39    ~~Franchise Tax Board may distribute, apportion, or allocate gross~~  
40    ~~income between the spouses, if it is determined that such~~

1 distribution, apportionment, or allocation is necessary in order to  
2 reflect the proper income of the spouses:

3 SEC. 79. Section 18501 of the Revenue and Taxation Code is  
4 amended to read:

5 18501. (a) Every individual taxable under Part 10  
6 (commencing with Section 17001) shall make a return to the  
7 Franchise Tax Board, stating specifically the items of the  
8 individual's gross income from all sources and the deductions and  
9 credits allowable, if the individual has any of the following for the  
10 taxable year:

11 (1) An adjusted gross income from all sources in excess of eight  
12 thousand dollars (\$8,000), if single:

13 (2) An adjusted gross income from all sources in excess of  
14 sixteen thousand dollars (\$16,000), if married:

15 (3) A gross income from all sources in excess of ten thousand  
16 dollars (\$10,000), if single, and twenty thousand dollars (\$20,000),  
17 if married, regardless of the amount of adjusted gross income:

18 (4) In the case of an individual described in Section 63(e)(5) of  
19 the Internal Revenue Code, relating to limitation on basic standard  
20 deduction in the case of certain dependents, a gross income from  
21 all sources that exceeds the amount of the standard deduction  
22 allowed under that section:

23 (b) If a married couple has for the taxable year an adjusted gross  
24 income from all sources in excess of sixteen thousand dollars  
25 (\$16,000) or a gross income from all sources in excess of twenty  
26 thousand dollars (\$20,000), each spouse shall make a return or the  
27 income of each shall be included on a single joint return as  
28 otherwise provided in this article:

29 (c) For any individual described in paragraph (1) or (2), the  
30 Franchise Tax Board shall recompute the amounts provided in  
31 subdivision (b) and paragraphs (1) to (3), inclusive, of subdivision  
32 (a) as follows:

33 (1) For any individual eligible to claim the credit described in  
34 subdivision (c) of Section 17054, the Franchise Tax Board shall  
35 increase the income amounts described in subdivision (b) and  
36 paragraphs (1) to (3), inclusive, of subdivision (a), as adjusted by  
37 subdivision (d), by the quotient provided by dividing the credit  
38 described in subdivision (c) of Section 17054, as adjusted in  
39 subdivision (i) of Section 17054, by 2 percent.

1     ~~(2) For any individual or married couple eligible to claim the~~  
2     ~~credit described in subdivision (d) of Section 17054, the Franchise~~  
3     ~~Tax Board shall increase the income amounts described in~~  
4     ~~subdivision (b) or paragraphs (1) to (3), inclusive, of subdivision~~  
5     ~~(a), as adjusted by subdivision (d), by the quotient provided by~~  
6     ~~dividing each credit described in subdivision (d) of Section 17054,~~  
7     ~~as adjusted in subdivision (i) of Section 17054, by the following:~~  
8     ~~(A) If the individual or married couple is not eligible to claim~~  
9     ~~the credit allowed in subdivision (e) of Section 17054, 3 percent~~  
10    ~~for the first dependent credit and 4 percent for the second dependent~~  
11    ~~credit, if any.~~  
12    ~~(B) If the individual or married couple is eligible to claim the~~  
13    ~~credit allowed in subdivision (e) of Section 17054, 4 percent for~~  
14    ~~the first dependent credit and 5 percent for the second dependent~~  
15    ~~credit, if any.~~  
16    ~~(d) For each taxable year beginning on or after January 1, 1996,~~  
17    ~~the Franchise Tax Board shall recompute the income amounts~~  
18    ~~prescribed in paragraphs (1) to (3), inclusive, of subdivision (a)~~  
19    ~~and in subdivision (b), as follows:~~  
20    ~~(1) The Department of Industrial Relations shall transmit~~  
21    ~~annually to the Franchise Tax Board the percentage change in the~~  
22    ~~California Consumer Price Index for all items from June of the~~  
23    ~~prior calendar year to June of the current calendar year, no later~~  
24    ~~than August 1 of the current calendar year.~~  
25    ~~(2) The Franchise Tax Board shall do both of the following:~~  
26    ~~(A) Compute an inflation adjustment factor by adding 100~~  
27    ~~percent to the percentage change figure that is furnished pursuant~~  
28    ~~to paragraph (1) and dividing the result by 100.~~  
29    ~~(B) Multiply the income amounts for the preceding taxable year~~  
30    ~~by the inflation adjustment factor determined in subparagraph (A)~~  
31    ~~and round off the resulting products to the nearest one dollar (\$1).~~  
32    ~~(e) The changes to subdivision (c) made by the act adding this~~  
33    ~~subdivision shall apply to each taxable year beginning on or after~~  
34    ~~January 1, 1999.~~  
35    ~~SEC. 80. Section 18522 of the Revenue and Taxation Code is~~  
36    ~~amended to read:~~  
37    ~~18522. If an individual has filed a separate return for a taxable~~  
38    ~~year for which a joint return could have been made by him or her~~  
39    ~~and his or her spouse under Section 18521, and the time prescribed~~  
40    ~~for filing the return for that taxable year has expired, that individual~~

1 and his or her spouse may nevertheless make a joint return for that  
2 taxable year, provided a joint federal income tax return is made  
3 under the provisions of Section 6013(b) of the Internal Revenue  
4 Code. A joint return filed by the married couple in that case shall  
5 constitute the return of the married couple for that taxable year;  
6 and all payments, credits, refunds, or other repayments made or  
7 allowed with respect to the separate return of either spouse for that  
8 taxable year shall be taken into account in determining the extent  
9 to which the tax based upon the joint return has been paid.

10 SEC. 81. Section 18530 of the Revenue and Taxation Code is  
11 amended to read:

12 18530. Where the amount shown as the tax by the married  
13 couple on a joint return made under Section 18522 exceeds the  
14 aggregate of the amounts shown as the tax upon the separate return  
15 of each spouse, each of the following shall apply:

16 (a) If any part of the excess is attributable to negligence or  
17 intentional disregard of rules and regulations (but without intent  
18 to defraud) at the time of the making of the separate return, then  
19 20 percent of the total amount of the excess shall be assessed,  
20 collected, and paid, in lieu of the 20 percent addition to the tax  
21 provided in subdivision (a) of Section 19164.

22 (b) If any part of the excess is attributable to fraud with intent  
23 to evade tax at the time of the making of the separate return, then  
24 75 percent of the total amount of the excess shall be assessed,  
25 collected, and paid, in lieu of the 75 percent addition to the tax  
26 provided in subdivision (b) of Section 19164.

27 SEC. 82. Section 18531.5 of the Revenue and Taxation Code  
28 is amended to read:

29 18531.5. For purposes of Section 443 of the Internal Revenue  
30 Code, where the spouses have different taxable years because of  
31 the death of either spouse, the joint return shall be treated as if the  
32 taxable years of both spouses ended on the date of the closing of  
33 the surviving spouse's taxable year.

34 SEC. 83. Section 18532 of the Revenue and Taxation Code is  
35 amended to read:

36 18532. For the purposes of this article, each of the following  
37 shall apply:

38 (a) The status as married of two individuals having taxable years  
39 beginning on the same day shall be determined as follows:



1     ~~(1) If both have the same taxable year, then as of the close of~~  
2     ~~that year.~~

3     ~~(2) If one dies before the close of the taxable year of the other,~~  
4     ~~then as of the time of the death.~~

5     ~~(b) An individual who is legally separated from his or her spouse~~  
6     ~~under a decree of divorce or of separate maintenance shall not be~~  
7     ~~considered as married.~~

8     ~~(c) If a joint return is made, the tax shall be computed on the~~  
9     ~~aggregate income and the liability with respect to the tax shall be~~  
10    ~~joint and several.~~

11    ~~SEC. 84. Section 19006 of the Revenue and Taxation Code is~~  
12    ~~amended to read:~~

13    ~~19006. (a) The spouse who controls the disposition of or who~~  
14    ~~receives or spends community income as well as the spouse who~~  
15    ~~is taxable on the income is liable for the payment of the taxes~~  
16    ~~imposed by Part 10 (commencing with Section 17001) on that~~  
17    ~~income.~~

18    ~~(b) Whenever a joint return is filed by a married couple, the~~  
19    ~~liability for the tax on the aggregate income is joint and several.~~  
20    ~~The liability may be revised by a court in a proceeding for~~  
21    ~~dissolution of the marriage of the married couple, provided:~~

22    ~~(1) The order revising tax liability may not relieve a spouse of~~  
23    ~~tax liability on income earned by or subject to the exclusive~~  
24    ~~management and control of the spouse. The liability of the spouse~~  
25    ~~for the tax, penalties, and interest due for the taxable year shall be~~  
26    ~~in the same ratio to total tax, penalties, and interest due for the~~  
27    ~~taxable year as the income earned by or subject to the management~~  
28    ~~and control of the spouse is to total gross income reportable on the~~  
29    ~~return.~~

30    ~~(2) The order revising tax liability:~~

31    ~~(A) Must separately state the income tax liabilities for the~~  
32    ~~taxable years for which revision of tax liability is granted.~~

33    ~~(B) Shall not revise a tax liability that has been fully paid prior~~  
34    ~~to the effective date of the order; however, any unpaid amount~~  
35    ~~may be revised.~~

36    ~~(C) Shall become effective when the Franchise Tax Board is~~  
37    ~~served with or acknowledges receipt of the order.~~

38    ~~(D) Shall not be effective if the gross income reportable on the~~  
39    ~~return exceeds one hundred fifty thousand dollars (\$150,000) or~~  
40    ~~the amount of tax liability the spouse is relieved of exceeds seven~~

1 thousand five hundred dollars (\$7,500), unless a tax revision  
2 clearance certificate is obtained from the Franchise Tax Board and  
3 filed with the court.

4 (e) Notwithstanding subdivisions (a) and (b), whenever a joint  
5 return is filed by a married couple and the tax liability is not fully  
6 paid, that liability, including interest and penalties, may be revised  
7 by the Franchise Tax Board as to one spouse.

8 (1) However, the liability shall not be revised:

9 (A) To relieve a spouse of tax liability on income earned by or  
10 subject to the exclusive management and control of the spouse.  
11 The liability of the spouse for the tax, penalties, and interest due  
12 for the taxable year shall be in the same ratio to total tax, penalties,  
13 and interest due for the taxable year as the income earned by or  
14 subject to the management and control of the spouse is to total  
15 gross income reportable on the return.

16 (B) To relieve a spouse of liability below the amount actually  
17 paid on the liability prior to the granting of relief, including credit  
18 from any other taxable year available for application to the liability.

19 (2) The liability may be revised only if the spouse whose liability  
20 is to be revised establishes that he or she did not know of, and had  
21 no reason to know of, the nonpayment at the time the return was  
22 filed. For purposes of this paragraph, “reason to know” means  
23 whether or not a reasonably prudent person would have had reason  
24 to know of the nonpayment.

25 (3) For purposes of this section, the determination of the spouse  
26 to whom items of gross income are attributable shall be made  
27 without regard to community property laws.

28 (4) The determination of the Franchise Tax Board as to whether  
29 the liability is to be revised as to one spouse shall be made not less  
30 than 30 days after notification of the other spouse and shall be  
31 based upon whether, under all of the facts and circumstances  
32 surrounding the nonpayment, it would be inequitable to hold the  
33 spouse requesting revision liable for the nonpayment. Any action  
34 taken under this section shall be treated as though it were action  
35 on a protest taken under Section 19044 and shall become final  
36 upon the expiration of 30 days from the date that notice of the  
37 action is mailed to both spouses, unless, within that 30-day period,  
38 one or both spouses appeal the determination to the board as  
39 provided in Section 19045.

1     ~~(5) This subdivision shall apply to all taxable years subject to~~  
2     ~~the provisions of this part, but shall not apply to any taxable year~~  
3     ~~which has been closed by a statute of limitations, res judicata, or~~  
4     ~~otherwise.~~

5     SEC. 85. ~~Section 19035 of the Revenue and Taxation Code is~~  
6     ~~amended to read:~~

7     ~~19035. In the case of a joint return filed by a married couple,~~  
8     ~~the notice of proposed deficiency assessment may be a single joint~~  
9     ~~notice, except that if the Franchise Tax Board is notified by either~~  
10    ~~spouse that separate residences have been established, it shall mail~~  
11    ~~to each spouse, in lieu of the single joint notice, duplicate originals~~  
12    ~~of the joint notice.~~

13    SEC. 86. ~~Section 19107 of the Revenue and Taxation Code is~~  
14    ~~amended to read:~~

15    ~~19107. Where an overpayment is made by any individual for~~  
16    ~~any year, and a deficiency is owing from the spouse of the taxpayer~~  
17    ~~for the same year, and both spouses notify the Franchise Tax Board~~  
18    ~~in writing prior to the expiration of the time within which credit~~  
19    ~~for the overpayment may be allowed that the overpayment may~~  
20    ~~be credited against the deficiency, no interest shall be assessed on~~  
21    ~~that portion of the deficiency as is extinguished by the credit for~~  
22    ~~the period of time subsequent to the date the overpayment was~~  
23    ~~made.~~

24    SEC. 87. ~~Section 19110 of the Revenue and Taxation Code is~~  
25    ~~amended to read:~~

26    ~~19110. (a) When the correction of an erroneous inclusion or~~  
27    ~~deduction of an item or items in the computation of income of a~~  
28    ~~trust, estate, parent, or spouse for any year results in an~~  
29    ~~overpayment for that year by the trust, estate, parent, or spouse,~~  
30    ~~and also results in a deficiency for the same year for a grantor of~~  
31    ~~the trust or beneficiary of the estate or trust, or child of the parent,~~  
32    ~~or spouse of the child, or the spouse of the spouse, the~~  
33    ~~overpayment, if the period within which credit for the overpayment~~  
34    ~~may be allowed has not expired, shall be credited on the deficiency,~~  
35    ~~if the period within which the deficiency may be proposed has not~~  
36    ~~expired, and the balance, if any, shall be credited or refunded. No~~  
37    ~~interest shall be assessed on the portion of the deficiency as is~~  
38    ~~extinguished by the credit for the period of time subsequent to the~~  
39    ~~date the overpayment was made.~~

1     (b) ~~When the correction of an erroneous inclusion or deduction~~  
2 ~~of an item or items in the computation of income of a grantor of~~  
3 ~~a trust, beneficiary of an estate or trust, a child, or spouse of the~~  
4 ~~child, or a spouse for any year results in an overpayment for that~~  
5 ~~year by the grantor, beneficiary, child, or spouse, and also results~~  
6 ~~in a deficiency for the same year for the grantor's or beneficiary's~~  
7 ~~trust, the beneficiary's estate, the child's parent, or spouse of the~~  
8 ~~child, or the beneficiary's spouse, the overpayment, if the period~~  
9 ~~within which credit for the overpayment may be allowed has not~~  
10 ~~expired, shall be credited on the deficiency, if the period within~~  
11 ~~which the deficiency may be proposed has not expired, and the~~  
12 ~~balance, if any, shall be credited or refunded. No interest shall be~~  
13 ~~assessed on the portion of the deficiency as is extinguished by the~~  
14 ~~credit for the period of time subsequent to the date the overpayment~~  
15 ~~was made.~~

16     (c) ~~Subdivisions (a) and (b) are not intended, nor shall they be~~  
17 ~~construed as a limitation on the Franchise Tax Board's right to~~  
18 ~~offset or recoup barred assessments against overpayments.~~

19     SEC. 88. ~~Section 19701.5 of the Revenue and Taxation Code~~  
20 ~~is amended to read:~~

21     19701.5. (a) ~~Any person who signs his or her spouse's name~~  
22 ~~on any income tax return, or any schedules or attachments thereto,~~  
23 ~~or who files electronically pursuant to Section 18621.5, without~~  
24 ~~the consent of the spouse as provided in subdivision (b), is guilty~~  
25 ~~of a misdemeanor and shall upon conviction be fined an amount~~  
26 ~~not to exceed five thousand dollars (\$5,000) or be imprisoned for~~  
27 ~~a term not to exceed one year, or both, at the discretion of the court,~~  
28 ~~together with costs of investigation and prosecution.~~

29     (b) ~~Notwithstanding subdivision (a), any person who signs his~~  
30 ~~or her spouse's name shall not be guilty of a misdemeanor when~~  
31 ~~one spouse is physically unable by reason of disease or injury to~~  
32 ~~sign a joint return, and the other spouse, with the oral consent of~~  
33 ~~the one who is incapacitated, signs the incapacitated spouse's name~~  
34 ~~in the proper place on the return followed by the words "By \_\_\_\_\_,~~  
35 ~~Spouse (or Husband or Wife)," and by the signature of the signing~~  
36 ~~spouse in his or her own right, provided that a dated statement~~  
37 ~~signed by the spouse who is signing the return is attached to and~~  
38 ~~made a part of the return stating each of the following:~~

39         (1) ~~The name of the return being filed.~~

40         (2) ~~The taxable year.~~

1     ~~(3) The reason for the inability of the spouse who is~~  
2     ~~incapacitated to sign the return.~~

3     ~~(4) That the spouse who is incapacitated consented to the signing~~  
4     ~~of the return and that the taxpayer and his or her agent, if any, are~~  
5     ~~responsible for the return as made and incur liability for the~~  
6     ~~penalties provided for erroneous, false, or fraudulent returns.~~

7     ~~(e) The penalties provided by this section are cumulative and~~  
8     ~~shall not be construed as restricting any other penalty provided by~~  
9     ~~law based upon the same facts, including any penalty under Section~~  
10    ~~470 of the Penal Code. However, an act or omission which is made~~  
11    ~~punishable in different ways by this section and different provisions~~  
12    ~~of the Penal Code shall not be punished under more than one~~  
13    ~~provision.~~

14    ~~SEC. 89. Section 20542 of the Revenue and Taxation Code is~~  
15    ~~amended to read:~~

16    ~~20542. (a) The Franchise Tax Board, pursuant to the provisions~~  
17    ~~of Article 3 (commencing with Section 20561), of this chapter,~~  
18    ~~shall provide assistance to the claimant based on a percentage of~~  
19    ~~the property tax accrued and paid by the claimant on the residential~~  
20    ~~dwelling as provided in Section 20543 or the statutory property~~  
21    ~~tax equivalent pursuant to Section 20544. In case of an~~  
22    ~~owner-claimant, the assistance shall be equal to the applicable~~  
23    ~~percentage of property taxes paid on the full value of the residential~~  
24    ~~dwelling up to, and including, thirty-four thousand dollars~~  
25    ~~(\$34,000). No assistance shall be allowed for property taxes paid~~  
26    ~~on that portion of full value of a residential dwelling exceeding~~  
27    ~~thirty-four thousand dollars (\$34,000). No assistance shall be~~  
28    ~~provided if the amount of the assistance claim is five dollars (\$5)~~  
29    ~~or less.~~

30    ~~(b) For purposes of allowing assistance provided for by this~~  
31    ~~section:~~

32    ~~(1) (A) Only one owner-claimant from one household each~~  
33    ~~year shall be entitled to assistance under this chapter. When two~~  
34    ~~or more individuals of a household are able to meet the~~  
35    ~~qualifications for an owner-claimant, they may determine who the~~  
36    ~~owner-claimant shall be. If they are unable to agree, the matter~~  
37    ~~shall be referred to the Franchise Tax Board and its decision shall~~  
38    ~~be final.~~

39    ~~(B) When two or more individuals pay rent for the same~~  
40    ~~premises and each individual meets the qualifications for a~~

1 renter-claimant, each qualified individual shall be entitled to  
2 assistance under this part.

3 For the purposes of this subparagraph, spouses residing in the  
4 same premises shall be presumed to be one renter.

5 (2) Except as provided in paragraph (3), the right to file a claim  
6 shall be personal to the claimant and shall not survive his or her  
7 death; however, when a claimant dies after having filed a timely  
8 claim, the amount thereof may be disbursed to the surviving spouse  
9 and, if no surviving spouse, to any other member of the household  
10 who is a qualified claimant. If there is no surviving spouse or  
11 otherwise qualified claimant, the claim shall be disbursed to any  
12 other member of the household. In the event two or more  
13 individuals qualify for payment as either an otherwise qualified  
14 claimant or a member of the household, they may determine which  
15 of them will be paid. If they are unable to agree, the matter shall  
16 be referred to the Franchise Tax Board and its decision shall be  
17 final.

18 (3) If, after January 1 of the property tax fiscal year for which  
19 a claim may be filed, a claimant dies without filing a timely claim,  
20 a claim on behalf of such claimant may be filed by the surviving  
21 spouse within the filing period prescribed in subdivision (a) or (b)  
22 of Section 20563.

23 (4) If an individual postponed taxes for any given property tax  
24 fiscal year under Chapter 2 (commencing with Section 20581),  
25 Chapter 3 (commencing with Section 20625), Chapter 3.3  
26 (commencing with Section 20639), or Chapter 3.5 (commencing  
27 with Section 20640), then any claim for assistance under this  
28 chapter for the same property tax fiscal year shall be filed by such  
29 individual (assuming all other eligibility requirements in this  
30 chapter are satisfied) and not an otherwise qualified member of  
31 the individual's household.

32 SEC. 90. Section 2804 of the Streets and Highways Code is  
33 amended to read:

34 2804. (a) This division does not apply to irrigation districts,  
35 irrigation district improvement districts, fire districts, fire protection  
36 districts, or public cemetery districts, or to any proceeding  
37 otherwise subject to this division when one or more of the  
38 following situations exist:

39 (1) The proceedings are undertaken by a district or public  
40 corporation within one year of its incorporation.

1     ~~(2) The improvement proceedings are by a chartered city,~~  
2     ~~chartered county, or a county sanitation district which is governed~~  
3     ~~ex officio by the board of supervisors of a chartered county, and~~  
4     ~~the city, county, or district has complied with Section 19 of Article~~  
5     ~~XVI of the California Constitution.~~

6     ~~(3) All of the owners of more than 60 percent in area of the~~  
7     ~~property subject to assessment for the proposed improvements~~  
8     ~~have signed and filed with the clerk or secretary of the legislative~~  
9     ~~body undertaking the proceedings a written petition for the~~  
10    ~~improvements meeting the requirements of Section 2804.5.~~

11    ~~(b) As used in this section, “substantially described” means that~~  
12    ~~additional improvements of the same or similar nature may not be~~  
13    ~~provided unless the estimated cost of the improvements does not~~  
14    ~~exceed 10 percent of the estimated cost of the improvements~~  
15    ~~provided in the former report.~~

16    ~~(c) As used in this section, “owner of land” means only a person~~  
17    ~~who, at the time the petition is filed with the clerk or secretary of~~  
18    ~~the legislative body, appears to be the owner upon the assessor’s~~  
19    ~~roll or, in the case of transfers of land, or parts thereof, subsequent~~  
20    ~~to the date upon which the last assessor’s roll was prepared, appear~~  
21    ~~to be the owner on the records in the county assessor’s office which~~  
22    ~~the county assessor will use to prepare the next assessor’s roll. If~~  
23    ~~any person signing the petition appears on the assessor’s roll or~~  
24    ~~the records in the county assessor’s office as an owner of property~~  
25    ~~as a joint tenant or tenant in common, or as a spouse, that property~~  
26    ~~shall be counted as if all those persons had signed the petition.~~

27    ~~SEC. 91. Section 13003 of the Unemployment Insurance Code~~  
28    ~~is amended to read:~~

29    ~~13003. (a) Except where the context otherwise requires, the~~  
30    ~~definitions set forth in this chapter, and in addition the definitions~~  
31    ~~and provisions of the Personal Income Tax Law referred to and~~  
32    ~~hereby incorporated by reference as set forth in the following~~  
33    ~~provisions of the Revenue and Taxation Code, shall apply to and~~  
34    ~~govern the construction of this division:~~

35    ~~(1) “Corporation” as defined by Section 17009.~~

36    ~~(2) “Fiduciary” as defined by Section 17006.~~

37    ~~(3) “Fiscal year” as defined by Section 17011.~~

38    ~~(4) “Foreign country” as defined by Section 17019.~~

39    ~~(5) “Franchise Tax Board” as defined by Section 17003.~~

40    ~~(6) “Spouse” as defined by Section 17021.~~

- 1     ~~(7) “Individual” as defined by Section 17005.~~
- 2     ~~(8) “Military or naval forces” as defined by Section 17022.~~
- 3     ~~(9) “Nonresident” as defined by Section 17015.~~
- 4     ~~(10) “Partnership” as defined by Section 17008.~~
- 5     ~~(11) “Person” as defined by Section 17007.~~
- 6     ~~(12) “Resident” as defined by Sections 17014 and 17016.~~
- 7     ~~(13) “State” as defined by Section 17018.~~
- 8     ~~(14) “Taxable year” as defined by Section 17010.~~
- 9     ~~(15) “Taxpayer” as defined by Section 17004.~~
- 10    ~~(16) “Trade or business” as defined by Section 17020.~~
- 11    ~~(17) “United States” as defined by Section 17017.~~
- 12    ~~(b) The provisions of Part 10 (commencing with Section 17001)~~  
13 ~~and Part 10.2 (commencing with Section 18401) of Division 2 of~~  
14 ~~the Revenue and Taxation Code, relating to the following items;~~  
15 ~~are hereby incorporated by reference and shall apply to and govern~~  
16 ~~construction of this division:~~
  - 17    ~~(1) Trade or business expense (Article 6 (commencing with~~  
18 ~~Section 17201) of Chapter 3 of Part 10).~~
  - 19    ~~(2) Deductions for retirement savings (Article 6 (commencing~~  
20 ~~with Section 17201) of Chapter 3 of Part 10).~~
  - 21    ~~(3) Distributions of property by a corporation to a shareholder~~  
22 ~~(Chapter 4 (commencing with Section 17321) of Part 10).~~
  - 23    ~~(4) Deferred compensation (Chapter 5 (commencing with~~  
24 ~~Section 17501) of Part 10).~~
  - 25    ~~(5) Partners and partnerships (Chapter 10 (commencing with~~  
26 ~~Section 17851) of Part 10).~~
  - 27    ~~(6) Gross income of nonresident taxpayers (Chapter 11~~  
28 ~~(commencing with Section 17951) of Part 10).~~
  - 29    ~~(7) Postponement of the time for certain acts by individuals in~~  
30 ~~or in support of the armed forces (Article 3 (commencing with~~  
31 ~~Section 18621) of Chapter 2 of Part 10.2).~~
  - 32    ~~(8) Disclosure of information (Article 2 (commencing with~~  
33 ~~Section 19542) of Chapter 7 of Part 10.2). For this purpose~~  
34 ~~“Franchise Tax Board” as used therein shall mean the Employment~~  
35 ~~Development Department in respect to information obtained in~~  
36 ~~the administration of this division.~~
- 37    ~~SEC. 92. Section 742.16 of the Welfare and Institutions Code~~  
38 ~~is amended to read:~~
  - 39    ~~742.16. (a) If a minor is found to be a person described in~~  
40 ~~Section 602 by reason of the commission of an act prohibited by~~



1 Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal  
2 Code, and the court does not remove the minor from the physical  
3 custody of the parent or guardian, the court as a condition of  
4 probation, except in any case in which the court makes a finding  
5 and states on the record its reasons why that condition would be  
6 inappropriate, shall require the minor to wash, paint, repair, or  
7 replace the property defaced, damaged, or destroyed by the minor  
8 or otherwise pay restitution to the probation officer of the county  
9 for disbursement to the owner or possessor of the property or both.  
10 In any case in which the minor is not granted probation or in which  
11 the minor's cleanup, repair, or replacement of the property will  
12 not return the property to its condition before it was defaced,  
13 damaged, or destroyed, the court shall make a finding of the  
14 amount of restitution that would be required to fully compensate  
15 the owner and possessor of the property for their damages. The  
16 court shall order the minor or the minor's estate to pay that  
17 restitution to the probation officer of the county for disbursement  
18 to the owner or possessor of the property or both, to the extent the  
19 court determines that the minor or the minor's estate have the  
20 ability to do so, except in any case in which the court makes a  
21 finding and states on the record its reasons why full restitution  
22 would be inappropriate. If full restitution is found to be  
23 inappropriate, the court shall require the minor to perform specified  
24 community service, except in any case in which the court makes  
25 a finding and states on the record its reasons why that condition  
26 would be inappropriate.

27 (b) If a minor is found to be a person described in Section 602  
28 by reason of the commission of an act prohibited by Section 594,  
29 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the  
30 graffiti or other material inscribed by the minor has been removed,  
31 or the property defaced by the minor has been repaired or replaced  
32 by a public entity that has elected, pursuant to Section 742.14, to  
33 have the probation officer of the county recoup its costs through  
34 proceedings in accordance with this section and has made cost  
35 findings in accordance with subdivision (c) or (d) of Section  
36 742.14, the court shall determine the total cost incurred by the  
37 public entity for said removal, repair, or replacement, using, if  
38 applicable, the cost findings most recently adopted by the public  
39 entity pursuant to subdivision (c) or (d) of Section 742.14. The  
40 court shall order the minor or the minor's estate to pay those costs

1 to the probation officer of the county to the extent the court  
2 determines that the minor or the minor's estate have the ability to  
3 do so.

4 (e) If the minor is found to be a person described in Section 602  
5 by reason of the commission of an act prohibited by Section 594,  
6 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the  
7 minor was identified or apprehended by the law enforcement  
8 agency of a city or county that has elected, pursuant to Section  
9 742.14, to have the probation officer of the county recoup its costs  
10 through proceedings in accordance with this section, the court shall  
11 determine the cost of identifying or apprehending the minor, or  
12 both, using, if applicable, the cost findings adopted by the city or  
13 county pursuant to subdivision (b) of Section 742.14. The court  
14 shall order the minor or the minor's estate to pay those costs to  
15 the probation officer of the county to the extent the court  
16 determines that the minor or the minor's estate has the ability to  
17 do so.

18 (d) If the court determines that the minor or the minor's estate  
19 is unable to pay in full the costs and damages determined pursuant  
20 to subdivisions (a), (b), and (c), and if the minor's parent or parents  
21 have been cited into court pursuant to Section 742.18, the court  
22 shall hold a hearing to determine the liability of the minor's parent  
23 or parents pursuant to Section 1714.1 of the Civil Code for those  
24 costs and damages. Except when the court makes a finding setting  
25 forth unusual circumstances in which parental liability would not  
26 serve the interests of justice, the court shall order the minor's parent  
27 or parents to pay those costs and damages to the probation officer  
28 of the county to the extent the court determines that the parent or  
29 parents have the ability to pay, if the minor was in the custody or  
30 control of the parent or parents at the time he or she committed  
31 the act that forms the basis for the finding that the minor is a person  
32 described in Section 602. In evaluating the parent's or parents'  
33 ability to pay, the court shall take into consideration the family  
34 income, the necessary obligations of the family, and the number  
35 of persons dependent upon this income.

36 (e) The hearing described in subdivision (d) may be held  
37 immediately following the disposition hearing or at a later date,  
38 at the option of the court.

39 (f) If the amount of costs and damages sought to be recovered  
40 in the hearing pursuant to subdivision (d) is five thousand dollars

1 (\$5,000) or less, the parent or parents may not be represented by  
2 counsel and the probation officer of the county shall be represented  
3 by his or her nonattorney designee. The court shall conduct that  
4 hearing in accordance with Sections 116.510 and 116.520 of the  
5 Code of Civil Procedure. Notwithstanding the foregoing, if the  
6 court determines that a parent cannot properly present his or her  
7 defense, the court may, in its discretion, allow another individual  
8 to assist that parent. In addition, a spouse may appear and  
9 participate in the hearing on behalf of his or her spouse if the  
10 representative's spouse has given his or her consent and the court  
11 determines that the interest of justice would be served thereby.

12 (g) ~~If the amount of costs and damages sought to be recovered~~  
13 ~~in the hearing pursuant to subdivision (d) exceeds five thousand~~  
14 ~~dollars (\$5,000), the parent or parents may be represented by~~  
15 ~~counsel of his or her or their own choosing, and the probation~~  
16 ~~officer of the county shall be represented by the district attorney~~  
17 ~~or an attorney or nonattorney designee of the probation officer.~~  
18 ~~The parent or parents shall not be entitled to court-appointed~~  
19 ~~counsel or to counsel compensated at public expense.~~

20 (h) ~~At the hearing conducted pursuant to subdivision (d), there~~  
21 ~~shall be a presumption affecting the burden of proof that the~~  
22 ~~findings of the court made pursuant to subdivisions (a), (b), and~~  
23 ~~(c) represent the actual damages and costs attributable to the act~~  
24 ~~of the minor that forms the basis of the finding that the minor is a~~  
25 ~~person described in Section 602.~~

26 (i) ~~If the parent or parents, after having been cited to appear~~  
27 ~~pursuant to Section 742.18, fail to appear as ordered, the court~~  
28 ~~shall order the parent or parents to pay the full amount of the costs~~  
29 ~~and damages determined by the court pursuant to subdivisions (a),~~  
30 ~~(b), and (c).~~

31 (j) ~~Execution may be issued on an order issued by the court~~  
32 ~~pursuant to this section in the same manner as on a judgment in a~~  
33 ~~civil action, including any balance unpaid at the termination of the~~  
34 ~~court's jurisdiction over the minor.~~

35 (k) ~~At any time prior to the satisfaction of a judgment entered~~  
36 ~~pursuant to this section, a person against whom the judgment was~~  
37 ~~entered may petition the rendering court to modify or vacate the~~  
38 ~~judgment on the showing of a change in circumstances relating to~~  
39 ~~his or her ability to pay the judgment.~~

1     ~~(l) For purposes of a hearing conducted pursuant to subdivision~~  
2 ~~(d), the judge of the juvenile court shall have the jurisdiction of a~~  
3 ~~judge of the superior court in a limited civil case, and if the amount~~  
4 ~~of the demand is within the jurisdictional limits stated in Sections~~  
5 ~~116.220 and 116.221 of the Code of Civil Procedure, the judge of~~  
6 ~~the juvenile court shall have the powers of a judge presiding over~~  
7 ~~the small claims court.~~

8     ~~(m) Nothing in this section shall be construed to limit the~~  
9 ~~authority of a juvenile court to provide conditions of probation.~~

10    ~~(n) The options available to the court pursuant to subdivisions~~  
11 ~~(a), (b), (c), (d), and (k), to order payment by the minor and his or~~  
12 ~~her parent or parents of less than the full costs described in~~  
13 ~~subdivisions (a), (b), and (c), on grounds of financial inability or~~  
14 ~~for reasons of justice, shall not be available to a superior court in~~  
15 ~~an ordinary civil proceeding pursuant to subdivision (b) of Section~~  
16 ~~1714.1 of the Civil Code, except that in any proceeding pursuant~~  
17 ~~to either subdivision (b) of Section 1714.1 of the Civil Code or~~  
18 ~~this section, the maximum amount that a parent or a minor may~~  
19 ~~be ordered to pay shall not exceed twenty thousand dollars~~  
20 ~~(\$20,000) for each tort of the minor.~~

21    ~~SEC. 93. Section 7275 of the Welfare and Institutions Code is~~  
22 ~~amended to read:~~

23     ~~7275. (a) The spouse, father, mother, or children of a patient~~  
24 ~~in a state hospital, the estates of these persons, and the guardian~~  
25 ~~or conservator and administrator of the estate of the patient shall~~  
26 ~~cause him or her to be properly and suitably cared for and~~  
27 ~~maintained, and shall pay the costs and charges for transportation~~  
28 ~~to a state institution. The spouse, father, mother, or children of a~~  
29 ~~patient in a state hospital and the administrators of their estates,~~  
30 ~~and the estate of the person shall be liable for his or her care,~~  
31 ~~support, and maintenance in a state institution of which he or she~~  
32 ~~is a patient. The liability of these persons and estates shall be a~~  
33 ~~joint and several liability, and the liability shall exist whether the~~  
34 ~~person has become a patient of a state institution pursuant to the~~  
35 ~~provisions of this code or pursuant to the provisions of Sections~~  
36 ~~1026, 1368, 1369, 1370, and 1372 of the Penal Code.~~

37    ~~(b) This section does not impose liability for the care of persons~~  
38 ~~with intellectual disabilities in state hospitals.~~

39    ~~SEC. 94. Section 12003 of the Welfare and Institutions Code~~  
40 ~~is amended to read:~~

1     ~~12003. For the purposes of this chapter, neither the residence~~  
2 ~~nor domicile of the spouse shall be deemed the residence or~~  
3 ~~domicile of the other, but each may have a separate residence or~~  
4 ~~domicile dependent upon proof of the fact and not on legal~~  
5 ~~presumption.~~

6     ~~For the purposes of this chapter, a minor child shall be deemed~~  
7 ~~to have resided in the state during any period in which such child~~  
8 ~~has been physically present in the state.~~

9     ~~SEC. 95. Section 14140 of the Welfare and Institutions Code~~  
10 ~~is amended to read:~~

11     ~~14140. The following definitions shall apply to the provisions~~  
12 ~~of this article:~~

13     ~~(a) "Net worth" means:~~

14     ~~(1) Personal property, which consists of cash, savings accounts,~~  
15 ~~securities, and similar items; notes, mortgages, and deeds of trust;~~  
16 ~~the cash surrender value of life insurance on the life of the applicant~~  
17 ~~or beneficiary, on the life of the spouse or any member of the~~  
18 ~~family, except as provided in Section 11158; motor vehicles, except~~  
19 ~~one which meets the transportation needs of the person or family;~~  
20 ~~any other property or equity other than real estate, except that~~  
21 ~~property specified in subdivisions (1), (2) and (3) of Section 11155.~~

22     ~~(2) Real property, including any interest in land of more than~~  
23 ~~nominal interest which does not constitute the home of the~~  
24 ~~applicant for aid under this chapter. The home of the applicant~~  
25 ~~shall be exempt from consideration as net worth under this section~~  
26 ~~to the extent of ten thousand dollars (\$10,000) in assessed~~  
27 ~~valuation, as assessed by the county assessor.~~

28     ~~(3) "Income" which consists of the sum of adjusted gross income~~  
29 ~~as used for purposes of the Federal Income Tax Law.~~

30     ~~(b) "Family unit" means:~~

31     ~~(1) In the case of an unmarried patient under 21 years of age~~  
32 ~~living with his or her parent or parents, the patient and his or her~~  
33 ~~parents.~~

34     ~~(2) In the case of a married patient under 21 years of age, the~~  
35 ~~patient and his or her spouse.~~

36     ~~(3) In the case of a patient over 21, the patient, and if married,~~  
37 ~~the patient's spouse.~~

38     ~~SEC. 96. Section 18291 of the Welfare and Institutions Code~~  
39 ~~is amended to read:~~

40     ~~18291. For purposes of this chapter:~~

- 1     ~~(a) “Domestic violence” means abuse committed against an~~  
2     ~~adult or a minor who is a spouse, former spouse, cohabitant, former~~  
3     ~~cohabitant, or person with whom the suspect has had a child or is~~  
4     ~~having or has had a dating or engagement relationship.~~  
5     ~~(b) “Cohabitant” means two unrelated adult persons living~~  
6     ~~together for a substantial period of time, resulting in some~~  
7     ~~permanency of relationship. Factors that may determine whether~~  
8     ~~persons are cohabiting include, but are not limited to, all of the~~  
9     ~~following:~~  
10    ~~(1) Sexual relations between the parties while sharing the same~~  
11    ~~living quarters.~~  
12    ~~(2) Sharing of income or expenses.~~  
13    ~~(3) Joint use or ownership of property.~~  
14    ~~(4) Whether the parties hold themselves out as spouses.~~  
15    ~~(5) The continuity of the relationship.~~  
16    ~~(6) The length of the relationship.~~  
17    ~~(c) “Domestic violence shelter” means a shelter for domestic~~  
18    ~~violence victims that meets all of the following requirements:~~  
19    ~~(1) Provides shelter in an undisclosed and secured location.~~  
20    ~~(2) Provides staff that meet the requirements set forth in Section~~  
21    ~~1037.1 of the Evidence Code.~~  
22    ~~(3) Meets the requirements set forth in Section 18294.~~  
23    ~~(d) “Undisclosed” means a location that is not advertised or~~  
24    ~~publicized.~~