

**Introduced by Senator Jackson
(Coauthor: Senator Leno)**

February 10, 2016

An act to amend Section 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 116.540, 371, 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, 5040, 5042, 5203, 6122, 6227, 6240, 13500, and 13600 of the Probate Code, to amend Sections 17021, 17039, 17045, 17053.5, 17054, 17077, 17555, 18501, 18522, 18530, 18531.5, 18532, 19006, 19035, 19107, 19110, 19701.5, and 20542 of the Revenue and Taxation Code, to amend Section 2804 of the Streets and Highways Code, to amend Section 13003 of the Unemployment Insurance Code, and to amend Sections 742.16, 7275, 12003, 14140, and 18291 of the Welfare and Institutions Code, relating to marriage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1005, as introduced, Jackson. Marriage.

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

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

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

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

1 SECTION 1. Section 17537.1 of the Business and Professions
2 Code is amended to read:

3 17537.1. (a) It is unlawful for any person, or an employee,
4 ~~agent~~ *agent*, or independent contractor employed or authorized by
5 that person, by any means, as part of an advertising plan or
6 program, to offer any incentive as an inducement to the recipient
7 to visit a location, attend a sales presentation, or contact a sales
8 agent in person, by ~~telephone~~ *telephone*, or by mail, unless the
9 offer clearly and conspicuously discloses in writing, in readily
10 understandable language, all of the information required in
11 paragraphs (1) and (2). If the offer is not initially made in writing,
12 the required disclosures shall be received by the recipient in writing
13 prior to any scheduled visit to a location, sales presentation, or
14 contact with a sales agent. For purposes of this section, the term
15 “incentive” means any item or service of value, including, but not
16 limited to, any prize, gift, money, or other tangible property.

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

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

1 (B) A general description of the business of the owner or
2 provider identified pursuant to subparagraph (A), and the purpose
3 of any requested visit, sales presentation, or contact with a sales
4 agent, which shall include a general description of the real or
5 personal property or services which are the subject of the sales
6 presentation and a clear statement, if applicable, that there will be
7 a sales presentation and the approximate duration of the visit and
8 sales presentation.

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

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

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

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

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

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

36 (ii) Any other conditions, such as a minimum age qualification,
37 a financial qualification, or a requirement that if the recipient is
38 married both ~~husband and wife~~ *spouses* must be present in order
39 to receive the incentive. Any financial qualifications shall be stated

1 with a specificity sufficient to enable the recipient to reasonably
2 determine his or her eligibility.

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

7 (D) A statement that a recipient who receives an offered
8 incentive may request and will receive evidence showing that the
9 incentive provided matches the incentive randomly or otherwise
10 selected for distribution to that recipient.

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

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

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

29 (d) If the person making an offer subject to subdivision (a) is
30 unable to provide an offered incentive because of limitations of
31 supply, quantity, or quality that were not reasonably foreseeable
32 or controllable by the person making the offer, the person making
33 the offer shall inform the recipient of the recipient's right to receive
34 a raincheck for the incentive offered, unless the person making
35 the offer knows or has reasonable basis for knowing that the
36 incentive will not be reasonably available and shall inform the
37 recipient of the recipient's right to at least one of the following
38 additional options:

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

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

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

5 (e) If a raincheck is provided, the person making an offer subject
6 to subdivision (a) shall, within a reasonable time, and in no event
7 later than 80 days, deliver the agreed incentive to the recipient's
8 address without additional cost or obligation to the recipient, unless
9 the incentive for which the raincheck is provided remains
10 unavailable because of limitations of supply, quantity, or quality
11 not reasonably foreseeable or controllable by the person making
12 the offer. In that case, the person making the offer shall, not later
13 than 30 days after the expiration of the 80 days, deliver a like
14 incentive of equal or greater retail value or, if an incentive is not
15 reasonably available to the person making the offer, a substitute
16 incentive of equal or greater retail value.

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

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

25 (1) Use any printing styles, graphics, layouts, text, colors, or
26 formats on envelopes or on the offer ~~which, implies, creates~~ *that*
27 *imply, create* an appearance, or would lead a reasonable person to
28 believe, that the offer originates from or is issued by or on behalf
29 of a government or public agency, public utility, public
30 organization, insurance company, credit reporting agency, bill
31 collecting ~~company~~ *company*, or law firm, unless the same is true.

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

34 (3) Misrepresent in any manner the odds of receiving any
35 particular incentive.

36 (4) Represent directly or by implication that the number of
37 participants has been significantly limited or that any person has
38 been selected to receive a particular incentive unless that is the
39 fact.

1 (5) Label any offer a notice of termination or notice of
2 cancellation.

3 (6) Misrepresent, in any manner, the offer, plan, *or* program or
4 the affiliation, connection, association, or contractual relationship
5 between the person making the offer and the owner or provider,
6 if they are not the same.

7 (h) If the major incentives are awarded or given at random, by
8 the assignment of a number to the incentives, that number shall
9 be actually assigned by the party contractually responsible for
10 doing so. The person making an offer subject to subdivision (a)
11 hereof, or the agent, employee, or independent contractor employed
12 or authorized by that person, if any, shall maintain, for a period of
13 one year after the date the offer is made, the records that show that
14 the winning numbers or opportunity to receive the major incentives
15 have been deposited in the mail or otherwise made available to
16 recipients in accordance with the odds statement provided pursuant
17 to subparagraph (C) of paragraph (1) of subdivision (a) hereof.
18 The records shall be made available to the Attorney General within
19 30 days after written request therefor. Postal receipt records,
20 affidavits of mailing, or a list of winners or recipients of the major
21 incentives shall be deemed to satisfy the requirements of this
22 section.

23 SEC. 2. Section 50 of the Civil Code is amended to read:

24 50. ~~Section Fifty.~~ Any necessary force may be used to protect
25 from wrongful injury the person or property of oneself, or of a
26 ~~wife, husband,~~ *spouse*, child, parent, or other relative, or member
27 of one's family, or of a ward, servant, master, or guest.

28 SEC. 3. Section 51.3 of the Civil Code is amended to read:

29 51.3. (a) The Legislature finds and declares that this section
30 is essential to establish and preserve specially designed accessible
31 housing for senior citizens. There are senior citizens who need
32 special living environments and services, and find that there is an
33 inadequate supply of this type of housing in the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (e) Upon the death or dissolution of marriage, or upon
38 hospitalization, or other prolonged absence of the qualifying
39 resident, any qualified permanent resident shall be entitled to
40 continue his or her occupancy, residency, or use of the dwelling

1 unit as a permitted resident. This subdivision shall not apply to a
2 permitted health care resident.

3 (f) The condominium, stock cooperative, limited-equity housing
4 cooperative, planned development, or multiple-family residential
5 rental property shall have been developed for, and initially been
6 put to use as, housing for senior citizens, or shall have been
7 substantially rehabilitated or renovated for, and immediately
8 afterward put to use as, housing for senior citizens, as provided in
9 this section; provided, however, that no housing development
10 constructed prior to January 1, 1985, shall fail to qualify as a senior
11 citizen housing development because it was not originally
12 developed for or originally put to use for occupancy by senior
13 citizens.

14 (g) The covenants, conditions, and restrictions or other
15 documents or written policies applicable to any condominium,
16 stock cooperative, limited-equity housing cooperative, planned
17 development, or multiple-family residential property that contained
18 age restrictions on January 1, 1984, shall be enforceable only to
19 the extent permitted by this section, notwithstanding lower age
20 restrictions contained in those documents or policies.

21 (h) Any person who has the right to reside in, occupy, or use
22 the housing or an unimproved lot subject to this section on January
23 1, 1985, shall not be deprived of the right to continue that
24 residency, occupancy, or use as the result of the enactment of this
25 section.

26 (i) The covenants, conditions, and restrictions or other
27 documents or written policy of the senior citizen housing
28 development shall permit the occupancy of a dwelling unit by a
29 permitted health care resident during any period that the person is
30 actually providing live-in, long-term, or hospice health care to a
31 qualifying resident for compensation. For purposes of this
32 subdivision, the term “for compensation” shall include provisions
33 of lodging and food in exchange for care.

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

36 SEC. 4. Section 51.11 of the Civil Code is amended to read:

37 51.11. (a) The Legislature finds and declares that this section
38 is essential to establish and preserve housing for senior citizens.
39 There are senior citizens who need special living environments,

1 and find that there is an inadequate supply of this type of housing
2 in the state.

3 (b) For the purposes of this section, the following definitions
4 apply:

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

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

10 (A) Was residing with the qualifying resident or senior citizen
11 prior to the death, hospitalization, or other prolonged absence of,
12 or the dissolution of marriage with, the qualifying resident or senior
13 citizen.

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

17 (3) “Qualified permanent resident” also means a disabled person
18 or person with a disabling illness or injury who is a child or
19 grandchild of the senior citizen or a qualified permanent resident
20 as defined in paragraph (2) who needs to live with the senior citizen
21 or qualified permanent resident because of the disabling condition,
22 illness, or injury. For purposes of this section, “disabled” means
23 a person who has a disability as defined in subdivision (b) of
24 Section 54. A “disabling injury or illness” means an illness or
25 injury which results in a condition meeting the definition of
26 disability set forth in subdivision (b) of Section 54.

27 (A) For any person who is a qualified permanent resident under
28 paragraph (3) whose disabling condition ends, the owner, board
29 of directors, or other governing body may require the formerly
30 disabled resident to cease residing in the development upon receipt
31 of six months’ written notice; provided, however, that the owner,
32 board of directors, or other governing body may allow the person
33 to remain a resident for up to one year, after the disabling condition
34 ends.

35 (B) The owner, board of directors, or other governing body of
36 the senior citizen housing development may take action to prohibit
37 or terminate occupancy by a person who is a qualified permanent
38 resident under paragraph (3) if the owner, board of directors, or
39 other governing body finds, based on credible and objective
40 evidence, that the person is likely to pose a significant threat to

1 the health or safety of others that cannot be ameliorated by means
2 of a reasonable accommodation; provided, however, that action
3 to prohibit or terminate the occupancy may be taken only after
4 doing both of the following:

5 (i) Providing reasonable notice to and an opportunity to be heard
6 for the disabled person whose occupancy is being challenged, and
7 reasonable notice to the coresident parent or grandparent of that
8 person.

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

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

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

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

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

35 (7) “Permitted health care resident” means a person hired to
36 provide live-in, long-term, or terminal health care to a qualifying
37 resident, or a family member of the qualifying resident providing
38 that care. For the purposes of this section, the care provided by a
39 permitted health care resident must be substantial in nature and

1 must provide either assistance with necessary daily activities or
2 medical treatment, or both.

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

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

11 (B) The absent senior citizen or an authorized person acting for
12 the senior citizen submits a written request to the owner, board of
13 directors, or governing board stating that the senior citizen desires
14 that the permitted health care resident be allowed to remain in
15 order to be present when the senior citizen returns to reside in the
16 development.

17 Upon written request by the senior citizen or an authorized
18 person acting for the senior citizen, the owner, board of directors,
19 or governing board shall have the discretion to allow a permitted
20 health care resident to remain for a time period longer than 90 days
21 from the date that the senior citizen's absence began, if it appears
22 that the senior citizen will return within a period of time not to
23 exceed an additional 90 days.

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

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

7 (e) Upon the death or dissolution of marriage, or upon
8 hospitalization, or other prolonged absence of the qualifying
9 resident, any qualified permanent resident shall be entitled to
10 continue his or her occupancy, residency, or use of the dwelling
11 unit as a permitted resident. This subdivision shall not apply to a
12 permitted health care resident.

13 (f) The covenants, conditions, and restrictions or other
14 documents or written policies applicable to any condominium,
15 stock cooperative, limited-equity housing cooperative, planned
16 development, or multiple-family residential property that contained
17 age restrictions on January 1, 1984, shall be enforceable only to
18 the extent permitted by this section, notwithstanding lower age
19 restrictions contained in those documents or policies.

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

25 (h) A housing development may qualify as a senior citizen
26 housing development under this section even though, as of January
27 1, 1997, it does not meet the definition of a senior citizen housing
28 development specified in subdivision (b), if the development
29 complies with that definition for every unit that becomes occupied
30 after January 1, 1997, and if the development was once within that
31 definition, and then became noncompliant with the definition as
32 the result of any one of the following:

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

37 (2) The development received a notice of a pending or proposed
38 action in, or by, a court, or a local, state, or federal enforcement
39 agency, which action could have resulted in the development being
40 ordered by a court or a state or federal enforcement agency to allow

1 persons other than qualifying residents, qualified permanent
2 residents, or permitted health care residents to reside in the
3 development.

4 (3) The development agreed to allow persons other than
5 qualifying residents, qualified permanent residents, or permitted
6 health care residents to reside in the development by entering into
7 a stipulation, conciliation agreement, or settlement agreement with
8 a local, state, or federal enforcement agency or with a private party
9 who had filed, or indicated an intent to file, a complaint against
10 the development with a local, state, or federal enforcement agency,
11 or file an action in a court.

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

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

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

24 SEC. 5. Section 682 of the Civil Code is amended to read:

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

- 26 1. Of joint interest;
- 27 2. Of partnership interests;
- 28 3. Of interests in common;
- 29 4. Of community interest of ~~husband and wife~~. *spouses*.

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

31 682.1. (a) Community property of a ~~husband and wife~~, *spouses*,
32 when expressly declared in the transfer document to be community
33 property with right of survivorship, and which may be accepted
34 in writing on the face of the document by a statement signed or
35 initialed by the grantees, shall, upon the death of one of the
36 spouses, pass to the survivor, without administration, pursuant to
37 the terms of the instrument, subject to the same procedures, as
38 property held in joint tenancy. Prior to the death of either spouse,
39 the right of survivorship may be terminated pursuant to the same
40 procedures by which a joint tenancy may be severed. Part I

1 (commencing with Section 5000) of Division 5 of the Probate
2 Code and Chapter 2 (commencing with Section 13540), Chapter
3 3 (commencing with Section 13550) and Chapter 3.5 (commencing
4 with Section 13560) of Part 2 of Division 8 of the Probate Code
5 apply to this property.

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

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

11 SEC. 7. Section 683 of the Civil Code is amended to read:

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

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

28 SEC. 8. Section 1099 of the Civil Code is amended to read:

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

39 (b) If a notice of work completed as contemplated by Section
40 8518 of the Business and Professions Code, indicating action by

1 a structural pest control licensee in response to an inspection report
2 delivered or to be delivered under provisions of subdivision (a),
3 or a certification pursuant to Section 8519 of the Business and
4 Professions Code, has been received by a transferor or his agent
5 before transfer of title or execution of a real property sales contract
6 as defined in Section 2985, it shall be furnished to the transferee
7 as soon as practical before transfer of title or the execution of such
8 real property sales contract.

9 (c) Delivery to a transferee as used in this section means delivery
10 in person or by mail to the transferee himself or any person
11 authorized to act for him in the transaction or to such additional
12 transferees who have requested such delivery from the transferor
13 or his agent in writing. For the purposes of this section, delivery
14 to either ~~husband or wife~~ *spouse* shall be deemed delivery to a
15 transferee, unless the contract affecting the transfer states
16 otherwise.

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

22 SEC. 9. Section 1569 of the Civil Code is amended to read:

23 1569. Duress consists in:

- 24 1. Unlawful confinement of the person of the party, or of the
25 ~~husband or wife~~ *spouse* of such party, or of an ancestor, descendant,
26 or adopted child of such ~~party, husband, party or wife;~~ *spouse*;
- 27 2. Unlawful detention of the property of any such person; or,
- 28 3. Confinement of such person, lawful in form, but fraudulently
29 obtained, or fraudulently made unjustly ~~harrassing~~ *harassing* or
30 oppressive.

31 SEC. 10. Section 3390 of the Civil Code is amended to read:

32 3390. The following obligations cannot be specifically
33 enforced:

- 34 1. An obligation to render personal service;
- 35 2. An obligation to employ another in personal service;
- 36 3. An agreement to perform an act which the party has not power
37 lawfully to perform when required to do so;
- 38 4. An agreement to procure the act or consent of the ~~wife~~ *spouse*
39 of the contracting party, or of any other third person; or,

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

3 SEC. 11. Section 116.540 of the Code of Civil Procedure is
4 amended to read:

5 116.540. (a) Except as permitted by this section, no individual
6 other than the plaintiff and the defendant may take part in the
7 conduct or defense of a small claims action.

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

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

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

23 (1) The claim can be proved or disputed by evidence of an
24 account that constitutes a business record as defined in Section
25 1271 of the Evidence Code, and there is no other issue of fact in
26 the case.

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

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

1 in the same action in an amount not to exceed the jurisdictional
2 limits stated in Sections 116.220, 116.221, and 116.231.

3 (f) A party incarcerated in a county jail, a Department of
4 Corrections and Rehabilitation facility, or a Division of Juvenile
5 Facilities facility is not required to personally appear, and may
6 submit declarations to serve as evidence supporting his or her
7 claim, or may authorize another individual to appear and participate
8 on his or her behalf if that individual is serving without
9 compensation and has appeared in small claims actions on behalf
10 of others no more than four times during the calendar year.

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

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

27 (i) A party that is an association created to manage a common
28 interest development, as defined in Section 4100 or in Sections
29 6528 and 6534 of the Civil Code, may appear and participate in a
30 small claims action through an agent, a management company
31 representative, or bookkeeper who appears on behalf of that
32 association.

33 (j) At the hearing of a small claims action, the court shall require
34 any individual who is appearing as a representative of a party under
35 subdivisions (b) to (i), inclusive, to file a declaration stating (1)
36 that the individual is authorized to appear for the party, and (2)
37 the basis for that authorization. If the representative is appearing
38 under subdivision (b), (c), (d), (h), or (i), the declaration also shall
39 state that the individual is not employed solely to represent the
40 party in small claims court. If the representative is appearing under

1 subdivision (e), (f), or (g), the declaration also shall state that the
2 representative is serving without compensation, and has appeared
3 in small claims actions on behalf of others no more than four times
4 during the calendar year.

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

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

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

16 SEC. 12. Section 371 of the Code of Civil Procedure is
17 amended to read:

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

21 SEC. 13. Section 703.140 of the Code of Civil Procedure is
22 amended to read:

23 703.140. (a) In a case under Title 11 of the United States Code,
24 all of the exemptions provided by this chapter, including the
25 homestead exemption, other than the provisions of subdivision (b)
26 are applicable regardless of whether there is a money judgment
27 against the debtor or whether a money judgment is being enforced
28 by execution sale or any other procedure, but the exemptions
29 provided by subdivision (b) may be elected in lieu of all other
30 exemptions provided by this chapter, as follows:

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

36 (2) If the petition is filed individually, and not jointly, for a
37 ~~husband or a wife,~~ *spouse*, the exemptions provided by this chapter
38 other than the provisions of subdivision (b) are applicable, except
39 that, if both ~~of the husband and the wife~~ *spouses* effectively waive
40 in writing the right to claim, during the period the case commenced

1 by filing the petition is pending, the exemptions provided by the
2 applicable exemption provisions of this chapter, other than
3 subdivision (b), in any case commenced by filing a petition for
4 either of them under Title 11 of the United States Code, then they
5 may elect to instead utilize the applicable exemptions set forth in
6 subdivision (b).

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

11 (b) The following exemptions may be elected as provided in
12 subdivision (a):

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

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

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

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

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

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

38 (7) Any unmaturing life insurance contract owned by the debtor,
39 other than a credit life insurance contract.

- 1 (8) The debtor's aggregate interest, not to exceed in value twelve
2 thousand eight hundred sixty dollars (\$12,860), in any accrued
3 dividend or interest under, or loan value of, any unmatured life
4 insurance contract owned by the debtor under which the insured
5 is the debtor or an individual of whom the debtor is a dependent.
6 (9) Professionally prescribed health aids for the debtor or a
7 dependent of the debtor.
8 (10) The debtor's right to receive any of the following:
9 (A) A social security benefit, unemployment compensation, or
10 a local public assistance benefit.
11 (B) A veterans' benefit.
12 (C) A disability, illness, or unemployment benefit.
13 (D) Alimony, support, or separate maintenance, to the extent
14 reasonably necessary for the support of the debtor and any
15 dependent of the debtor.
16 (E) A payment under a stock bonus, pension, profit-sharing,
17 annuity, or similar plan or contract on account of illness, disability,
18 death, age, or length of service, to the extent reasonably necessary
19 for the support of the debtor and any dependent of the debtor,
20 unless all of the following apply:
21 (i) That plan or contract was established by or under the auspices
22 of an insider that employed the debtor at the time the debtor's
23 rights under the plan or contract arose.
24 (ii) The payment is on account of age or length of service.
25 (iii) That plan or contract does not qualify under Section 401(a),
26 403(a), 403(b), 408, or 408A of the Internal Revenue Code of
27 1986.
28 (11) The debtor's right to receive, or property that is traceable
29 to, any of the following:
30 (A) An award under a crime victim's reparation law.
31 (B) A payment on account of the wrongful death of an individual
32 of whom the debtor was a dependent, to the extent reasonably
33 necessary for the support of the debtor and any dependent of the
34 debtor.
35 (C) A payment under a life insurance contract that insured the
36 life of an individual of whom the debtor was a dependent on the
37 date of that individual's death, to the extent reasonably necessary
38 for the support of the debtor and any dependent of the debtor.

1 (D) A payment, not to exceed twenty-four thousand sixty dollars
2 (\$24,060), on account of personal bodily injury of the debtor or
3 an individual of whom the debtor is a dependent.

4 (E) A payment in compensation of loss of future earnings of
5 the debtor or an individual of whom the debtor is or was a
6 dependent, to the extent reasonably necessary for the support of
7 the debtor and any dependent of the debtor.

8 SEC. 14. Section 704.930 of the Code of Civil Procedure is
9 amended to read:

10 704.930. (a) A homestead declaration recorded pursuant to
11 this article shall contain all of the following:

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

16 (2) A description of the declared homestead.

17 (3) A statement that the declared homestead is the principal
18 dwelling of the declared homestead owner or such person's spouse,
19 and that the declared homestead owner or such person's spouse
20 resides in the declared homestead on the date the homestead
21 declaration is recorded.

22 (b) The homestead declaration shall be executed and
23 acknowledged in the manner of an acknowledgment of a
24 conveyance of real property by at least one of the following
25 persons:

26 (1) The declared homestead owner.

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

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

32 (4) A person acting under a power of attorney or otherwise
33 authorized to act on behalf of a person listed in paragraph (1) or
34 (2).

35 (c) The homestead declaration shall include a statement that the
36 facts stated in the homestead declaration are known to be true as
37 of the personal knowledge of the person executing and
38 acknowledging the homestead declaration. If the homestead
39 declaration is executed and acknowledged by a person listed in
40 paragraph (3) or (4) of subdivision (b), it shall also contain a

1 statement that the person has authority to so act on behalf of the
2 declared homestead owner or the spouse of the declared homestead
3 owner and the source of the person’s authority.

4 SEC. 15. Section 158 of the Corporations Code is amended to
5 read:

6 158. (a) “Close corporation” means a corporation, including
7 a close social purpose corporation, whose articles contain, in
8 addition to the provisions required by Section 202, a provision that
9 all of the corporation’s issued shares of all classes shall be held of
10 record by not more than a specified number of persons, not
11 exceeding 35, and a statement “This corporation is a close
12 corporation.”

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

17 (c) The special provisions referred to in subdivision (a) may be
18 deleted from the articles by amendment, or the number of
19 shareholders specified may be changed by amendment, but if such
20 amendment is adopted after the issuance of ~~shares~~ *shares*, only by
21 the affirmative vote of at least two-thirds of each class of the
22 outstanding shares; provided, however, that the articles may
23 provide for a lesser vote, but not less than a majority of the
24 outstanding shares, or may deny a vote to any class, or both.

25 (d) In determining the number of shareholders for the purposes
26 of the provision in the articles authorized by this section, ~~a husband~~
27 *spouses* and ~~wife~~ and the personal representative of either shall be
28 counted as one regardless of how shares may be held by either or
29 both of them, a trust or personal representative of a decedent
30 holding shares shall be counted as one regardless of the number
31 of trustees or ~~beneficiaries~~ *beneficiaries*, and a partnership or
32 corporation or business association holding shares shall be counted
33 as one (except that any such trust or entity the primary purpose of
34 which was the acquisition or voting of the shares shall be counted
35 according to the number of beneficial interests therein).

36 (e) A corporation shall cease to be a close corporation upon the
37 filing of an amendment to its articles pursuant to subdivision (c)
38 ~~or~~ *or*; if it shall have more than the maximum number of holders
39 of record of its shares specified in its articles as a result of an inter
40 vivos transfer of shares which is not void under subdivision (d) of

1 Section 418, the transfer of shares on distribution by will or
2 pursuant to the laws of descent and distribution, the dissolution of
3 a partnership or corporation or business-~~association~~ *association*,
4 or the termination of a trust which holds shares, by court decree
5 upon dissolution of a marriage or otherwise by operation of law.
6 Promptly upon acquiring more than the specified number of holders
7 of record of its shares, a close corporation shall execute and file
8 an amendment to its articles deleting the special provisions referred
9 to in subdivision (a) and deleting any other provisions not
10 permissible for a corporation which is not a close corporation,
11 which amendment shall be promptly approved and filed by the
12 board and need not be approved by the outstanding shares.

13 (f) Nothing contained in this section shall invalidate any
14 agreement among the shareholders to vote for the deletion from
15 the articles of the special provisions referred to in subdivision (a)
16 upon the lapse of a specified period of time or upon the occurrence
17 of a certain event or condition or otherwise.

18 (g) The following sections contain specific references to close
19 corporations: Sections 186, 202, 204, 300, 418, 421, 1111, 1201,
20 1800, and 1904.

21 SEC. 16. Section 704 of the Corporations Code is amended to
22 read:

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

- 35 (1) If only one votes, such act binds all;
36 (2) If more than one vote, the act of the majority so voting
37 binds all;
38 (3) If more than one vote, but the vote is evenly split on any
39 particular matter, each faction may vote the securities in question
40 proportionately.

1
2 If the instrument so filed or the registration of the shares shows
3 that any such tenancy is held in unequal interests, a majority or
4 even split for the purpose of this section shall be a majority or even
5 split in interest.

6 SEC. 17. Section 5612 of the Corporations Code is amended
7 to read:

8 5612. If a membership stands of record in the names of two or
9 more persons, whether fiduciaries, members of a partnership, joint
10 tenants, tenants in common, ~~husband and wife spouses~~ as
11 community property, tenants by the entirety, or otherwise, or if
12 two or more persons (including proxyholders) have the same
13 fiduciary relationship respecting the same membership, unless the
14 secretary of the corporation is given written notice to the contrary
15 and is furnished with a copy of the instrument or order appointing
16 them or creating the relationship wherein it is so provided, their
17 acts with respect to voting shall have the following effect:

- 18 (a) If only one votes, such act binds all;
- 19 (b) If more than one vote, the act of the majority so voting binds
20 all.

21 SEC. 18. Section 7612 of the Corporations Code is amended
22 to read:

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

- 34 (a) If only one votes, such act binds all; or
- 35 (b) If more than one vote, the act of the majority so voting binds
36 all.

37 SEC. 19. Section 12482 of the Corporations Code is amended
38 to read:

39 12482. Unless otherwise provided in the articles or bylaws, if
40 a membership stands of record in the names of two or more

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

- 11 (a) If only one vote, such act binds all; or
- 12 (b) If more than one vote, the act of the majority so voting binds
13 all.

14 SEC. 20. Section 25102 of the Corporations Code is amended
15 to read:

16 25102. The following transactions are exempt from the
17 provisions of Section 25110:

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

35 (b) Any offer (but not a sale) of a security for which a
36 registration statement has been filed under the Securities Act of
37 1933 but has not yet become effective, or for which an offering
38 statement under Regulation A has been filed but has not yet been
39 qualified, if no stop order or refusal order is in effect and no public
40 proceeding or examination looking towards an order is pending

1 under Section 8 of the act and no order under Section 25140 or
2 subdivision (a) of Section 25143 is in effect under this law.

3 (c) Any offer (but not a sale) and the execution and delivery of
4 any agreement for the sale of securities pursuant to the offer as
5 may be permitted by the commissioner upon application. Any
6 negotiating permit under this subdivision shall be conditioned to
7 the effect that none of the securities may be issued and none of
8 the consideration therefor may be received or accepted until the
9 sale of the securities is qualified under this law.

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

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

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

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

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

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

36 (4) The offer and sale of the security is not accomplished by
37 the publication of any advertisement. The number of purchasers
38 referred to above is exclusive of any described in subdivision (i),
39 any officer, director, or affiliate of the issuer, or manager (as
40 appointed or elected by the members) if the issuer is a limited

1 liability company, and any other purchaser who the commissioner
2 designates by rule. For purposes of this section, ~~a husband and~~
3 ~~wife spouses~~ (together with any custodian or trustee acting for the
4 account of their minor children) are counted as one person and a
5 partnership, corporation, or other organization that was not
6 specifically formed for the purpose of purchasing the security
7 offered in reliance upon this exemption, is counted as one person.
8 The commissioner shall by rule require the issuer to file a notice
9 of transactions under this subdivision.

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

22 (g) Any offer or sale of conditional sale agreements, equipment
23 trust certificates, or certificates of interest or participation therein
24 or partial assignments thereof, covering the purchase of railroad
25 rolling stock or equipment or the purchase of motor vehicles,
26 aircraft, or parts thereof, in a transaction not involving any public
27 offering.

28 (h) Any offer or sale of voting common stock by a corporation
29 incorporated in any state if, immediately after the proposed sale
30 and issuance, there will be only one class of stock of the
31 corporation outstanding that is owned beneficially by no more than
32 35 persons, provided all of the following requirements have been
33 met:

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

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

39 (A) Only assets (which may include cash) of an existing business
40 enterprise transferred to the issuer upon its initial organization, of

1 which all of the persons who are to receive the stock to be issued
2 pursuant to this exemption were owners during, and the enterprise
3 was operated for, a period of not less than one year immediately
4 preceding the proposed issuance, and the ownership of the
5 enterprise immediately prior to the proposed issuance was in the
6 same proportions as the shares of stock are to be issued.

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

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

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

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

23 (4) A notice in a form prescribed by rule of the commissioner,
24 signed by an active member of the State Bar of California, is filed
25 with or mailed for filing to the commissioner not later than 10
26 business days after receipt of consideration for the securities by
27 the issuer. That notice shall contain an opinion of the member of
28 the State Bar of California that the exemption provided by this
29 subdivision is available for the offer and sale of the securities. The
30 failure to file the notice as required by this subdivision and the
31 rules of the commissioner shall not affect the availability of this
32 exemption. An issuer who fails to file the notice within the time
33 specified by this subdivision shall, within 15 business days after
34 discovery of the failure to file the notice or after demand by the
35 commissioner, whichever occurs first, file the notice and pay to
36 the commissioner a fee equal to the fee payable had the transaction
37 been qualified under Section 25110. The notice, except when filed
38 on behalf of a California corporation, shall be accompanied by an
39 irrevocable consent, in the form that the commissioner by rule
40 prescribes, appointing the commissioner or his or her successor in

1 office to be the issuer’s attorney to receive service of any lawful
2 process in any noncriminal suit, action, or proceeding against it
3 or its successor that arises under this law or any rule or order
4 hereunder after the consent has been filed, with the same force and
5 validity as if served personally on the issuer. An issuer on whose
6 behalf a consent has been filed in connection with a previous
7 qualification or exemption from qualification under this law (or
8 application for a permit under any prior law if the application or
9 notice under this law states that the consent is still effective) need
10 not file another. Service may be made by leaving a copy of the
11 process in the office of the commissioner, but it is not effective
12 unless (A) the plaintiff, who may be the commissioner in a suit,
13 action, or proceeding instituted by him or her, forthwith sends
14 notice of the service and a copy of the process by registered or
15 certified mail to the defendant or respondent at its last address on
16 file with the commissioner, and (B) the plaintiff’s affidavit of
17 compliance with this section is filed in the case on or before the
18 return day of the process, if any, or within the further time as the
19 court allows.

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

24 For the purposes of this subdivision, all securities held by ~~a~~
25 ~~husband and wife~~, *spouses*, whether or not jointly, shall be
26 considered to be owned by one person, and all securities held by
27 a corporation that has issued stock pursuant to this exemption shall
28 be considered to be held by the shareholders to whom it has issued
29 the stock.

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

1 effective date of the amendments to this section made during the
2 1996 portion of the 1995–96 Regular Session.

3 (i) Any offer or sale (1) to a bank, savings and loan association,
4 trust company, insurance company, investment company registered
5 under the Investment Company Act of 1940, pension or
6 profit-sharing trust (other than a pension or profit-sharing trust of
7 the issuer, a self-employed individual retirement plan, or individual
8 retirement account), or other institutional investor or governmental
9 agency or instrumentality that the commissioner may designate
10 by rule, whether the purchaser is acting for itself or as trustee, or
11 (2) to any corporation with outstanding securities registered under
12 Section 12 of the Securities Exchange Act of 1934 or any wholly
13 owned subsidiary of the corporation that after the offer and sale
14 will own directly or indirectly 100 percent of the outstanding
15 capital stock of the issuer, provided the purchaser represents that
16 it is purchasing for its own account (or for the trust account) for
17 investment and not with a view to or for sale in connection with
18 any distribution of the security.

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

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

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

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

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

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

38 (k) Any offer or sale of any security under, or pursuant to, a
39 plan of reorganization under Chapter 11 of the federal bankruptcy

1 law that has been confirmed or is subject to confirmation by the
2 decree or order of a court of competent jurisdiction.

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

8 (m) Any offer or sale of a stock to a pension, profit-sharing,
9 stock bonus, or employee stock ownership plan, provided that (1)
10 the plan meets the requirements for qualification under Section
11 401 of the Internal Revenue Code, and (2) the employees are not
12 required or permitted individually to make any contributions to
13 the plan. The exemption provided by this subdivision shall not be
14 affected by whether the stock is contributed to the plan, purchased
15 from the issuer with contributions by the issuer or an affiliate of
16 the issuer, or purchased from the issuer with funds borrowed from
17 the issuer, an affiliate of the issuer, or any other lender.

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

21 (1) The issuer is (A) a California corporation or foreign
22 corporation that, at the time of the filing of the notice required
23 under this subdivision, is subject to Section 2115, or (B) any other
24 form of business entity, including without limitation a partnership
25 or trust organized under the laws of this state. The exemption
26 provided by this subdivision is not available to a “blind pool”
27 issuer, as that term is defined by the commissioner, or to an
28 investment company subject to the Investment Company Act of
29 1940.

30 (2) Sales of securities are made only to qualified purchasers or
31 other persons the issuer reasonably believes, after reasonable
32 inquiry, to be qualified purchasers. A corporation, partnership, or
33 other organization specifically formed for the purpose of acquiring
34 the securities offered by the issuer in reliance upon this exemption
35 may be a qualified purchaser if each of the equity owners of the
36 corporation, partnership, or other organization is a qualified
37 purchaser. Qualified purchasers include the following:

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

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

3 (C) A pension or profit-sharing trust of the issuer, a
4 self-employed individual retirement plan, or an individual
5 retirement account, if the investment decisions made on behalf of
6 the trust, plan, or account are made solely by persons who are
7 qualified purchasers.

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

13 (E) With respect to the offer and sale of one class of voting
14 common stock of an issuer or of preferred stock of an issuer
15 entitling the holder thereof to at least the same voting rights as the
16 issuer's one class of voting common stock, provided that the issuer
17 has only one-class voting common stock outstanding upon
18 consummation of the offer and sale, a natural person who, either
19 individually or jointly with the person's spouse, (i) has a minimum
20 net worth of two hundred fifty thousand dollars (\$250,000) and
21 had, during the immediately preceding tax year, gross income in
22 excess of one hundred thousand dollars (\$100,000) and reasonably
23 expects gross income in excess of one hundred thousand dollars
24 (\$100,000) during the current tax year or (ii) has a minimum net
25 worth of five hundred thousand dollars (\$500,000). "Net worth"
26 shall be determined exclusive of home, home furnishings, and
27 automobiles. Other assets included in the computation of net worth
28 may be valued at fair market value.

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

39 (F) Any other purchaser designated as qualified by rule of the
40 commissioner.

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

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

25 (5) (A) A general announcement of proposed offering may be
26 published by written document only, provided that the general
27 announcement of proposed offering sets forth the following
28 required information:

- 29 (i) The name of the issuer of the securities.
- 30 (ii) The full title of the security to be issued.
- 31 (iii) The anticipated suitability standards for prospective
32 purchasers.
- 33 (iv) A statement that (I) no money or other consideration is
34 being solicited or will be accepted, (II) an indication of interest
35 made by a prospective purchaser involves no obligation or
36 commitment of any kind, and, if the issuer is required by paragraph
37 (4) to deliver a disclosure statement to prospective purchasers,
38 (III) no sales will be made or commitment to purchase accepted
39 until five business days after delivery of a disclosure statement

1 and subscription information to the prospective purchaser in
2 accordance with the requirements of this subdivision.

3 (v) Any other information required by rule of the commissioner.

4 (vi) The following legend: “For more complete information
5 about (Name of Issuer) and (Full Title of Security), send for
6 additional information from (Name and Address) by sending this
7 coupon or calling (Telephone Number).”

8 (B) The general announcement of proposed offering referred
9 to in subparagraph (A) may also set forth the following
10 information:

11 (i) A brief description of the business of the issuer.

12 (ii) The geographic location of the issuer and its business.

13 (iii) The price of the security to be issued, or, if the price is not
14 known, the method of its determination or the probable price range
15 as specified by the issuer, and the aggregate offering price.

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

18 (D) Dissemination of the general announcement of proposed
19 offering to persons who are not qualified purchasers, without more,
20 shall not disqualify the issuer from claiming the exemption under
21 this subdivision.

22 (6) No telephone solicitation shall be permitted until the issuer
23 has determined that the prospective purchaser to be solicited is a
24 qualified purchaser.

25 (7) The issuer files a notice of transaction under this subdivision
26 both (A) concurrent with the publication of a general announcement
27 of proposed offering or at the time of the initial offer of the
28 securities, whichever occurs first, accompanied by a filing fee, and
29 (B) within 10 business days following the close or abandonment
30 of the offering, but in no case more than 210 days from the date
31 of filing the first notice. The first notice of transaction under
32 subparagraph (A) shall contain an undertaking, in a form acceptable
33 to the commissioner, to deliver any disclosure statement required
34 by paragraph (4) to be delivered to prospective purchasers, and
35 any supplement thereto, to the commissioner within 10 days of
36 the commissioner’s request for the information. The exemption
37 from qualification afforded by this subdivision is unavailable if
38 an issuer fails to file the first notice required under subparagraph
39 (A) or to pay the filing fee. The commissioner has the authority
40 to assess an administrative penalty of up to one thousand dollars

1 (\$1,000) against an issuer that fails to deliver the disclosure
2 statement required to be delivered to the commissioner upon the
3 commissioner’s request within the time period set forth above.
4 Neither the filing of the disclosure statement nor the failure by the
5 commissioner to comment thereon precludes the commissioner
6 from taking any action deemed necessary or appropriate under this
7 division with respect to the offer and sale of the securities.

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

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

37 (p) An offer or sale of nonredeemable securities to accredited
38 investors (Section 28031) by a person licensed under the Capital
39 Access Company Law (Division 3 (commencing with Section
40 28000) of Title 4), provided that all purchasers either (1) have a

1 preexisting personal or business relationship with the offeror or
2 any of its partners, officers, directors, controlling persons, or
3 managers (as appointed or elected by the members), or (2) by
4 reason of their business or financial experience or the business or
5 financial experience of their professional advisers who are
6 unaffiliated with and who are not compensated by the issuer or
7 any affiliate or selling agent of the issuer, directly or indirectly,
8 could be reasonably assumed to have the capacity to protect their
9 own interests in connection with the transaction. All nonredeemable
10 securities shall be evidenced by certificates that shall have stamped
11 or printed prominently on their face a legend in a form to be
12 prescribed by rule or order of the commissioner restricting transfer
13 of the securities in the manner as the rule or order provides. The
14 exemption under this subdivision shall not be available for any
15 offering that is exempt or asserted to be exempt pursuant to Section
16 3(a)(11) of the Securities Act of 1933 (15 U.S.C. Sec. 77c(a)(11))
17 or Rule 147 (17 C.F.R. 230.147) thereunder or otherwise is
18 conducted by means of any form of general solicitation or general
19 advertising.

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

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

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

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

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

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

6 (E) A natural person who, either individually or jointly with the
7 person's spouse, (i) has a minimum net worth of one hundred fifty
8 thousand dollars (\$150,000) and had, during the immediately
9 preceding tax year, gross income in excess of one hundred thousand
10 dollars (\$100,000) and reasonably expects gross income in excess
11 of one hundred thousand dollars (\$100,000) during the current tax
12 year or (ii) has a minimum net worth of two hundred fifty thousand
13 dollars (\$250,000). "Net worth" shall be determined exclusive of
14 home, home furnishings, and automobiles. Other assets included
15 in the computation of net worth may be valued at fair market value.

16 Each natural person specified above, by reason of his or her
17 business or financial experience, or the business or financial
18 experience of his or her professional adviser, who is unaffiliated
19 with and who is not compensated, directly or indirectly, by the
20 issuer or any affiliate or selling agent of the issuer, can be
21 reasonably assumed to have the capacity to protect his or her
22 interests in connection with the transaction.

23 The amount of the investment of each natural person shall not
24 exceed 10 percent of the net worth, as determined by this
25 subdivision, of that natural person.

26 (F) Any other purchaser designated as qualified by rule of the
27 commissioner.

28 (2) Each purchaser represents that the purchaser is purchasing
29 for the purchaser's own account (or trust account, if the purchaser
30 is a trustee) and not with a view to or for sale in connection with
31 a distribution of the security.

32 (3) Each natural person purchaser, including a corporation,
33 partnership, or other organization specifically formed by natural
34 persons for the purpose of acquiring the securities offered by the
35 issuer, receives, at least five business days before securities
36 described in this subdivision are sold to, or a commitment to
37 purchase is accepted from, the purchaser, the following information
38 in writing:

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

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

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

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

6 (E) If the issuer retains ownership or becomes the beneficiary
7 of the insurance policy, an audit report of an independent certified
8 public accountant together with a balance sheet and related
9 statements of income, retained earnings, and cashflows that reflect
10 the issuer's financial position, the results of the issuer's operations,
11 and the issuer's cashflows as of a date within 15 months before
12 the date of the initial issuance of the securities described in this
13 subdivision. The financial statements listed in this subparagraph
14 shall be prepared in conformity with generally accepted accounting
15 principles. If the date of the audit report is more than 120 days
16 before the date of the initial issuance of the securities described
17 in this subdivision, the issuer shall provide unaudited interim
18 financial statements.

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

21 (G) A description of any order, judgment, or decree that is final
22 as to the issuing entity of any state, federal, or foreign country
23 governmental agency or administrator, or of any state, federal, or
24 foreign country court of competent jurisdiction (i) revoking,
25 suspending, denying, or censuring for cause any license, permit,
26 or other authority of the issuer or of any director, officer, partner,
27 member, trustee, or person owning or controlling, directly or
28 indirectly, 10 percent or more of the outstanding interest or equity
29 securities of the issuer, to engage in the securities, commodities,
30 franchise, insurance, real estate, or lending business or in the offer
31 or sale of securities, commodities, franchises, insurance, real estate,
32 or loans, (ii) permanently restraining, enjoining, barring,
33 suspending, or censuring any such person from engaging in or
34 continuing any conduct, practice, or employment in connection
35 with the offer or sale of securities, commodities, franchises,
36 insurance, real estate, or loans, (iii) convicting any such person
37 of, or pleading nolo contendere by any such person to, any felony
38 or misdemeanor involving a security, commodity, franchise,
39 insurance, real estate, or loan, or any aspect of the securities,
40 commodities, franchise, insurance, real estate, or lending business,

1 or involving dishonesty, fraud, deceit, embezzlement, fraudulent
2 conversion, or misappropriation of property, or (iv) holding any
3 such person liable in a civil action involving breach of a fiduciary
4 duty, fraud, deceit, embezzlement, fraudulent conversion, or
5 misappropriation of property. This subparagraph does not apply
6 to any order, judgment, or decree that has been vacated, overturned,
7 or is more than 10 years old.

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

10 (I) The name, address, and telephone number of the issuing
11 insurance company, and the name, address, and telephone number
12 of the state or foreign country regulator of the insurance company.

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

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

16 (L) If a group insurance policy, the name, address, and telephone
17 number of the group, and, if applicable, the material terms and
18 conditions of converting the policy to an individual policy,
19 including the amount of increased premiums.

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

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

25 (O) The insurance policy premiums and terms of premium
26 payments.

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

29 (Q) The name, address, and telephone number of the person
30 who will be the insurance policy owner and the person who will
31 be responsible for paying premiums.

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

34 (S) A statement to the effect that any projected rate of return to
35 the purchaser from the purchase of a viatical or life settlement
36 contract or a fractionalized or pooled interest therein is based on
37 an estimated life expectancy for the person insured under the life
38 insurance policy; that the return on the purchase may vary
39 substantially from the expected rate of return based upon the actual
40 life expectancy of the insured that may be less than, equal to, or

1 may greatly exceed the estimated life expectancy; and that the rate
2 of return would be higher if the actual life expectancy were less
3 than, and lower if the actual life expectancy were greater than the
4 estimated life expectancy of the insured at the time the viatical or
5 life settlement contract was closed.

6 (T) A statement that the purchaser should consult with his or
7 her tax adviser regarding the tax consequences of the purchase of
8 the viatical or life settlement contract or fractionalized or pooled
9 interest therein and, if the purchaser is using retirement funds or
10 accounts for that purchase, whether or not any adverse tax
11 consequences might result from the use of those funds for the
12 purchase of that investment.

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

15 SEC. 21. Section 25206 of the Corporations Code is amended
16 to read:

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

27 SEC. 22. Section 21100 of the Education Code is amended to
28 read:

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

39 SEC. 23. Section 24803 of the Education Code is amended to
40 read:

1 24803. (a) If any benefit is payable by a district retirement
2 system to the estate of a deceased person, whether because the
3 estate is the beneficiary of the person or because no beneficiary
4 was designated or because an allowance payable to the person had
5 accrued and remained unpaid at the date of the death, and the estate
6 would not be administered if no amount were due from the system,
7 then the benefit shall be paid directly without procuring letters of
8 administration to the surviving next of kin of the deceased, or the
9 guardians of the survivors' estates, share and share alike. The
10 payment shall be made in the same order in which the following
11 groups are listed:

- 12 (1) ~~Husband or wife.~~ *Spouse.*
- 13 (2) Children and issue of deceased children by right of
14 representation.
- 15 (3) Father and mother.
- 16 (4) Brothers and sisters.
- 17 (5) Nieces and nephews.

18 (b) Payment may also be made to persons in the groups listed
19 in subdivision (a) to the extent those persons are the only
20 beneficiaries under the last will and testament of a deceased former
21 member of a district retirement system, without the probate of the
22 will.

23 SEC. 24. Section 68062 of the Education Code is amended to
24 read:

25 68062. In determining the place of residence the following
26 rules are to be observed:

- 27 (a) There can only be one residence.
- 28 (b) A residence is the place where one remains when not called
29 elsewhere for labor or other special or temporary purpose, and to
30 which he or she returns in seasons of repose.
- 31 (c) A residence cannot be lost until another is gained.
- 32 (d) The residence can be changed only by the union of act and
33 intent.
- 34 (e) A man or woman may establish his or her residence. A
35 ~~woman's~~ *person's* residence shall not be derivative from that of
36 ~~his or her husband.~~ *spouse.*

37 (f) The residence of the parent with whom an unmarried minor
38 child maintains his or her place of abode is the residence of the
39 unmarried minor child. When the minor lives with neither parent
40 his or her residence is that of the parent with whom he or she

1 maintained his or her last place of abode, provided the minor may
2 establish his or her residence when both parents are deceased and
3 a legal guardian has not been appointed.

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

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

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

14 SEC. 25. Section 917 of the Evidence Code is amended to read:

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

25 (b) A communication between persons in a relationship listed
26 in subdivision (a) does not lose its privileged character for the sole
27 reason that it is communicated by electronic means or because
28 persons involved in the delivery, facilitation, or storage of
29 electronic communication may have access to the content of the
30 communication.

31 (c) For purposes of this section, "electronic" has the same
32 meaning provided in Section 1633.2 of the Civil Code.

33 SEC. 26. Section 980 of the Evidence Code is amended to read:

34 980. Subject to Section 912 and except as otherwise provided
35 in this article, a spouse (or his *or her* guardian or conservator when
36 he *or she* has a guardian or conservator), whether or not a party,
37 has a privilege during the marital relationship and afterwards to
38 refuse to disclose, and to prevent another from disclosing, a
39 communication if he *or she* claims the privilege and the
40 ~~communication~~ *communication* was made in confidence between

1 him *or her* and the other spouse while they were ~~husband and wife~~.
2 *spouses*.

3 SEC. 27. Section 14860 of the Financial Code is amended to
4 read:

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

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

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

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

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

5 (2) When shares are issued in an irrevocable trust, the settlor or
6 the beneficiary shall be a member of this credit union in his or her
7 own right. For purposes of this section, shares issued pursuant to
8 a pension plan authorized by this section shall be treated as an
9 irrevocable trust unless otherwise indicated in rules and regulations
10 issued by the commissioner.

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

13 SEC. 28. Section 18220 of the Financial Code is amended to
14 read:

15 18220. An industrial loan company shall not induce any
16 ~~husband and wife~~ *spouses* jointly or severally, to become obligated,
17 directly or contingently or both, under more than one contract of
18 loan at the same time, with the result of obtaining a higher rate of
19 charge than would otherwise be permitted by this division.

20 SEC. 29. Section 18523 of the Financial Code is amended to
21 read:

22 18523. The following described thrift obligations will be
23 guaranteed by Guaranty Corporation in the amounts hereinafter
24 set forth below:

25 (a) Single ownership investment certificates. Funds owned by
26 an individual and invested in the manner set forth below shall be
27 added together and guaranteed up to fifty thousand dollars
28 (\$50,000) in the aggregate.

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

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

39 (3) Investment certificates held by guardians, ~~custodians~~
40 *custodians*, or conservators for the benefit of their wards or for the

1 benefit of a minor under a Uniform Gifts to Minors Act and
2 invested in one or more investment certificates in the name of the
3 guardian, ~~custodian~~ *custodian*, or conservator shall be added to
4 any individual investment certificates of the ward or minor and
5 guaranteed up to fifty thousand dollars (\$50,000) in the aggregate.

6 (b) Testamentary investment certificates.

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

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

22 (c) Investment certificates held by executors or administrators.
23 Funds of a decedent held in the name of the decedent or in the
24 name of the executor or administrator of his or her estate and
25 invested in one or more investment certificates shall be guaranteed
26 up to fifty thousand dollars (\$50,000) in the aggregate, separately
27 from the individual investment certificates of the beneficiaries of
28 the estate or of the executor or administrator.

29 (d) Corporation or partnership investment certificates.
30 Investment certificates of a corporation or partnership engaged in
31 any independent activity shall be guaranteed up to fifty thousand
32 dollars (\$50,000) in the aggregate. An investment certificate of a
33 corporation or partnership not engaged in an independent activity
34 shall be deemed to be owned by the person or persons owning
35 such corporation or comprising such partnership and, for guarantee
36 purposes, the interest of each person in the investment certificate
37 shall be added to any other investment certificates individually
38 owned by such person and guaranteed up to fifty thousand dollars
39 (\$50,000) in the aggregate. The term "independent activity" means

1 any activity other than one directed solely at increasing guarantee
2 coverage under this chapter.

3 (e) Unincorporated associations. Investment certificates of an
4 unincorporated association engaged in any independent activity
5 shall be guaranteed up to fifty thousand dollars (\$50,000) in the
6 aggregate. An investment certificate of an unincorporated
7 association not engaged in an independent activity shall be deemed
8 to be owned by the persons comprising such association and, for
9 guarantee purposes, the interest of each owner in the investment
10 certificate shall be added to any other investment certificates
11 individually owned by such person and guaranteed up to fifty
12 thousand dollars (\$50,000) in the aggregate.

13 (f) Joint investment certificates.

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

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

23 (3) An investment certificate owned jointly which does not
24 qualify as a joint investment certificate for purposes of guarantee
25 of investment certificates shall be treated as owned by the named
26 persons as individuals and the actual ownership interest of each
27 such person in such investment certificate shall be added to any
28 other investment certificates individually owned by such person
29 and guaranteed up to fifty thousand dollars (\$50,000) in the
30 aggregate.

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

34 (5) The interest of each co-owner in all joint investment
35 certificates owned by different combinations of individuals shall
36 then be added together and guaranteed up to fifty thousand dollars
37 (\$50,000) in the aggregate.

38 (g) Trust investment certificates. All trust interests for the same
39 beneficiary invested in investment certificates established pursuant
40 to valid trust arrangements created by the same settlor (grantor)

1 shall be added together and guaranteed up to fifty thousand dollars
2 (\$50,000) in the aggregate, separately from other investment
3 certificates of the trustee of such trust funds or the settlor or
4 beneficiary of such trust arrangements.

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

12 SEC. 30. Section 22327 of the Financial Code is amended to
13 read:

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

26 SEC. 31. Section 8552.3 of the Fish and Game Code is
27 amended to read:

28 8552.3. The commission may, in consultation with
29 representatives of the commercial herring roe fishery, and after
30 holding at least one public hearing, adopt regulations intended to
31 facilitate the transfer of herring permits, including, but not limited
32 to, regulations that would do the following:

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

35 (b) Eliminate the point system for qualifying for a herring
36 permit.

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

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

1 9359.9. If a beneficiary is not designated, or if the estate is the
 2 beneficiary and the estate would not be probated if no amount were
 3 due from this system, all of the amount due by reason of the death
 4 of a member or retired member, including retirement allowances
 5 accrued but not received prior to death, shall be paid directly
 6 without probate to the surviving next of kin of the deceased, or
 7 the guardians of such survivors' estates, share and share alike.

8 Such payment shall be made in the same order in which the
 9 following groups are listed:

- 10 1. ~~Husband or wife~~, *Spouse*,
- 11 2. Children,
- 12 3. Father and mother,
- 13 4. Grandchildren,
- 14 5. Brothers and sisters,
- 15 6. Nieces and nephews.

16 SEC. 33. Section 9374 of the Government Code is amended
 17 to read:

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

32 (1) A widow or a widower who was married to the member
 33 prior to the occurrence of the injury or onset of the illness that
 34 resulted in death, and has the care of unmarried children, including
 35 stepchildren, of the deceased member under 18 years of age or so
 36 incapacitated, shall be paid three hundred sixty dollars (\$360) if
 37 there is one such child, or four hundred thirty dollars (\$430) per
 38 month if there are two or more such children. If there also are such
 39 children who are not in the care of the surviving spouse, the portion
 40 of the allowance payable under this paragraph, assuming that these

1 children were in the care of the surviving spouse, which is in excess
2 of one hundred eighty dollars (\$180) per month, shall be divided
3 equally among all of those children and payments made to the
4 spouse and other children, as the case may be.

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

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

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

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

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

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

1 “Stepchildren,” for purposes of this section, shall include only
2 stepchildren of the member living with him or her in a regular
3 parent-child relationship at the time of his or her death.

4 SEC. 34. Section 21571 of the Government Code is amended
5 to read:

6 21571. (a) If the death benefit provided by Section 21532 is
7 payable on account of a member’s death that occurs under
8 circumstances other than those described in subparagraph (F) of
9 paragraph 1 of subdivision (a) of Section 21530, or if an allowance
10 under Section 21546 is payable, the payment pursuant to
11 subdivision (b) shall be made, in the following order of priority:

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

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

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

22 (4) Each surviving parent of the member.

23 (b) Regardless of the benefit provided by Section 21532 and of
24 the beneficiary designated by the member under that section, or
25 regardless of the allowance provided under Section 21546, the
26 following applicable 1959 survivor allowance, under the conditions
27 stated and from contributions of the state, shall be paid:

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

1 payments made to the spouse and other children, as the case may
2 be.

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

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

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

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

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

28 (4) If there is no surviving spouse or surviving child who
29 qualifies for a 1959 survivor allowance, or if the surviving spouse
30 dies and there is no surviving child, or if the surviving spouse dies
31 and the children die or marry or, if not incapacitated, reach age
32 22, each of the member's dependent parents who has attained or
33 attains the age of 62, and who received at least one-half of his or
34 her support from the member at the time of the member's death,
35 shall be paid one hundred eighty dollars (\$180) per month.

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

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

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

6 (f) On and after the date determined by the board, all assets and
7 liabilities of all contracting agencies subject to this section, and
8 their employees, on account of benefits provided under this article
9 shall be pooled into a single account, and a single employer rate
10 shall be established to provide benefits under this section on
11 account of members employed by a contracting agency that is
12 subject to this section.

13 (g) The rate of contribution of an employer subject to this section
14 shall be figured using the term insurance valuation method. If a
15 contracting agency that is subject to this section is projected to
16 have a surplus in its 1959 survivor benefit account as of the date
17 the assets and liabilities are first pooled, the surplus shall be applied
18 to reduce its rate of contribution. If a contracting agency that is
19 subject to this section is projected to have a deficit in its 1959
20 survivor benefit account as of the date the assets and liabilities are
21 first pooled, its rate of contribution shall be increased until the
22 projected deficit is paid.

23 SEC. 35. Section 21572 of the Government Code is amended
24 to read:

25 21572. (a) In lieu of benefits provided in Section 21571, if the
26 death benefit provided by Section 21532 is payable on account of
27 a state member's death that occurs under circumstances other than
28 those described in subparagraph (F) of paragraph (1) of subdivision
29 (a) of Section 21530, or if an allowance under Section 21546 is
30 payable, the payment pursuant to subdivision (b) shall be made in
31 the following order of priority:

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

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

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

3 (4) Each surviving parent of the member.

4 (b) Regardless of the benefit provided by Section 21532 and of
5 the beneficiary designated by the member under that section, or
6 regardless of the allowance provided under Section 21546, the
7 following applicable 1959 survivor allowance, under the conditions
8 stated and from contributions of the state, shall be paid:

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

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

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

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

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

37 (3) A surviving spouse who has attained or attains the age of
38 62 years and, with respect to that surviving spouse, who was either
39 continuously married to the member for at least one year prior to
40 death, or was married to the member prior to the occurrence of the

1 injury or onset of the illness that resulted in death, shall be paid
2 two hundred twenty-five dollars (\$225) per month. No allowance
3 shall be paid under this paragraph while the surviving spouse is
4 receiving an allowance under paragraph (1) or while an allowance
5 is being paid under subparagraph (C) of paragraph (2). The
6 allowance paid under this paragraph shall be eighty-eight dollars
7 (\$88) per month while an allowance is being paid under
8 subparagraph (B) of paragraph (2).

9 (4) If there is no surviving spouse or surviving child who
10 qualifies for a 1959 survivor allowance, or if the surviving spouse
11 dies and there is no surviving child, or if the surviving spouse dies
12 and the children die or marry or, if not incapacitated, reach 22
13 years of age, each of the member's dependent parents who has
14 attained or attains the age of 62 years, and who received at least
15 one-half of his or her support from the member at the time of the
16 member's death, shall be paid two hundred twenty-five dollars
17 (\$225) per month.

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

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

25 (e) This section shall apply, with respect to benefits payable on
26 and after July 1, 1981, to all members employed by a school
27 employer, and school safety members employed with a school
28 district or community college district as defined in subdivision (i)
29 of Section 20057, except that it shall not apply, without contract
30 amendment, with respect to safety members who became members
31 after July 1, 1981. All assets and liabilities of all school employers,
32 and their employees, on account of benefits provided under this
33 article shall be pooled into a single account, and a single employer
34 rate shall be established to provide benefits under this section on
35 account of all miscellaneous members employed by a school
36 employer and all safety members who are members on July 1,
37 1981.

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

1 (g) On and after January 1, 2000, all state members covered by
2 this section shall be covered by the benefit provided under Section
3 21574.7.

4 (h) On and after the date determined by the board, all assets and
5 liabilities of all contracting agencies subject to this section, and
6 their employees, on account of benefits provided under this article
7 shall be pooled into a single account, and a single employer rate
8 shall be established to provide benefits under this section on
9 account of members employed by a contracting agency that is
10 subject to this section.

11 (i) The rate of contribution of an employer subject to this section
12 shall be figured using the term insurance valuation method. If a
13 contracting agency that is subject to this section is projected to
14 have a surplus in its 1959 survivor benefit account as of the date
15 the assets and liabilities are first pooled, the surplus shall be applied
16 to reduce its rate of contribution. If a contracting agency that is
17 subject to this section is projected to have a deficit in its 1959
18 survivor benefit account as of the date the assets and liabilities are
19 first pooled, its rate of contribution shall be increased until the
20 projected deficit is paid.

21 SEC. 36. Section 21573 of the Government Code is amended
22 to read:

23 21573. (a) In lieu of benefits provided in Section 21571 or
24 Section 21572, if the death benefit provided by Section 21532 is
25 payable on account of a state member's death that occurs under
26 circumstances other than those described in subparagraph (F) of
27 paragraph (1) of subdivision (a) of Section 21530, or if an
28 allowance under Section 21546 is payable, the payment pursuant
29 to subdivision (b) shall be made in the following order of priority:

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

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

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

40 (4) Each surviving parent of the member.

1 (b) Regardless of the benefit provided by Section 21532 and of
2 the beneficiary designated by the member under that section, or
3 regardless of the allowance provided under Section 21546, the
4 following applicable 1959 survivor allowance, under the conditions
5 stated and from contributions of the state, shall be paid:

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

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

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

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

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

33 (3) A surviving spouse who has attained or attains the age of
34 62 years, and, with respect to that surviving spouse, who was either
35 continuously married to the member for at least one year prior to
36 death, or who was married to the member prior to the occurrence
37 of the injury or onset of the illness that resulted in death, shall be
38 paid three hundred fifty dollars (\$350) per month. No allowance
39 shall be paid under this paragraph while the surviving spouse is
40 receiving an allowance under paragraph (1) or while an allowance

1 is being paid under subparagraph (C) of paragraph (2). The
2 allowance paid under this paragraph shall be one hundred forty
3 dollars (\$140) per month while an allowance is being paid under
4 subparagraph (B) of paragraph (2).

5 (4) If there is no surviving spouse or surviving child who
6 qualifies for the 1959 survivor allowance, or if the surviving spouse
7 dies and there is no surviving child, or if the surviving spouse dies
8 and the children die or marry or, if not incapacitated, reach 22
9 years of age, each of the member's dependent parents who has
10 attained or attains the age of 62 years, and who received at least
11 one-half of his or her support from the member at the time of the
12 member's death, shall be paid three hundred fifty dollars (\$350)
13 per month.

14 (c) "Stepchildren," for purposes of this section, shall include
15 only stepchildren of the member living with the member in a
16 regular parent-child relationship at the time of the death of the
17 member.

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

30 (e) This section shall not apply to beneficiaries with respect to
31 the death of a state member, except as provided in subdivision (i),
32 occurring on or after January 1, 1985, unless provided for in a
33 memorandum of understanding reached pursuant to Section 3517.5,
34 or authorized by the Director of Personnel Administration for
35 classifications of state employees that are excluded from, or not
36 subject to, collective bargaining. The memorandum of
37 understanding adopting this section shall be controlling without
38 further legislative action, except that if those provisions of a
39 memorandum of understanding require the expenditure of funds,

1 those provisions shall not become effective unless approved by
2 the Legislature as provided by law.

3 (f) This section shall apply, with respect to benefits payable on
4 and after January 1, 1985, to school members and to school safety
5 members, as defined in Section 20444. All assets and liabilities of
6 all school employers, and their employees, on account of benefits
7 provided under this article shall be pooled into a single account,
8 and a single employer rate shall be established to provide benefits
9 under this section on account of school members employed by a
10 school employer.

11 (g) This section shall apply to members of a contracting agency
12 that, in its original contract or by amending its contract, first elects
13 effective on or after January 1, 1985, and prior to July 1, 2001, to
14 make this article applicable to local members employed by the
15 agency. On or after January 1, 1985, and prior to July 1, 2001,
16 contracting agencies already subject to Section 21571 or Section
17 21572 may elect by contract amendment to be subject to this
18 section. All assets and liabilities of all contracting agencies subject
19 to this section, and their employees, on account of benefits provided
20 under this article shall be pooled into a single account, and a single
21 employer rate shall be established to provide benefits under this
22 section on account of members employed by a contracting agency
23 that is subject to this section. Any public agency first contracting
24 with the board on or after January 1, 1994, and prior to July 1,
25 2001, or any contracting agency amending its contract to remove
26 exclusions of member classifications on or after January 1, 1994,
27 and prior to July 1, 2001, that has not, pursuant to Section 418 of
28 Title 42 of the United States Code, entered into an agreement with
29 the federal government for the coverage of its employees under
30 the federal system, shall be subject to this section.

31 (h) The rate of contribution of an employer subject to this section
32 shall be figured using the term insurance valuation method. If a
33 contracting agency that is subject to this section has a surplus in
34 its 1959 survivor benefit account as of the date the contracting
35 agency becomes subject to this section, the surplus shall be applied
36 to reduce its rate of contribution. If a contracting agency that is
37 subject to this section has a deficit in its 1959 survivor benefit
38 account as of the date the contracting agency becomes subject to
39 this section, its rate of contribution shall be increased until the
40 deficit is paid.

1 (i) This section shall not apply to beneficiaries with respect to
2 the death of a state member employed by the California State
3 University occurring on or after January 1, 1988, unless provided
4 for in a memorandum of understanding reached pursuant to Chapter
5 12 (commencing with Section 3560) of Division 4 of Title 1, or
6 authorized by the Trustees of the California State University for
7 employees excluded from collective bargaining. The memorandum
8 of understanding shall be controlling without further legislative
9 action, except that if the provisions of a memorandum of
10 understanding require the expenditure of funds, the provisions
11 shall not become effective unless approved by the Legislature in
12 the annual Budget Act.

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

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

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

21 SEC. 37. Section 1373.5 of the Health and Safety Code is
22 amended to read:

23 1373.5. ~~When a husband and wife~~ *spouses* are both employed
24 as employees, and both have enrolled themselves and their eligible
25 family members under a group health care service plan provided
26 by their respective employers, and each spouse is covered as an
27 employee under the terms of the same master contract, each spouse
28 may claim on his or her behalf, or on behalf of his or her enrolled
29 dependents, the combined maximum contractual benefits to which
30 an employee is entitled under the terms of the master contract, not
31 to exceed in the aggregate 100 percent of the charge for the covered
32 expense or service.

33 This section shall apply to every group plan entered into,
34 delivered, amended, or renewed in this state on or after January
35 1, 1978.

36 SEC. 38. Section 18080 of the Health and Safety Code is
37 amended to read:

38 18080. Ownership registration and title to a manufactured
39 home, mobilehome, commercial coach, or truck camper, or floating

1 home subject to registration may be held by two or more coowners
2 as follows:

3 (a) A manufactured home, mobilehome, commercial coach,
4 truck camper, or floating home may be registered in the names of
5 two or more persons as joint tenants. Upon the death of a joint
6 tenant, the interest of the decedent shall pass to the survivor or
7 survivors. The signature of each joint tenant or survivor or
8 survivors, as the case may be, shall be required to transfer or
9 encumber the title to the manufactured home, mobilehome,
10 commercial coach, truck camper, or floating home.

11 (b) A manufactured home, mobilehome, commercial coach,
12 truck camper, or floating home may be registered in the names of
13 two or more persons as tenants in common. If the names of the
14 tenants in common are separated by the word~~“and”~~, “and,” each
15 tenant in common may transfer his or her individual interest in the
16 manufactured home, mobilehome, ~~commercial~~ commercial coach,
17 truck camper, or floating home without the signature of the other
18 tenant or tenants in common. However, the signature of each tenant
19 in common shall be required to transfer full interest in the title to
20 a new registered owner. If the names of the tenants in common
21 are separated by the word~~“or”~~, “or,” any one of the tenants in
22 common may transfer full interest in the title to the manufactured
23 home, mobilehome, commercial coach, truck camper, or floating
24 home to a new registered owner without the signature of the other
25 tenant or tenants in common. The signature of each tenant in
26 common is required in all cases to encumber the title to the
27 manufactured home, mobilehome, commercial coach, truck camper,
28 or floating home.

29 (c) A manufactured home, mobilehome, commercial coach,
30 truck camper, or floating home may be registered as community
31 property in the names of ~~a husband and wife~~. *the spouses*. The
32 signature of each spouse shall be required to transfer or encumber
33 the title to the manufactured home, mobilehome, commercial
34 coach, truck camper, or floating home.

35 (d) All manufactured homes, mobilehomes, commercial
36 coaches, truck campers, and floating homes registered, on or before
37 January 1, 1985, in the names of two or more persons as tenants
38 in common, as provided in subdivision (b), shall be considered to
39 be the same as if the names of the tenants in common were
40 separated by the word “or,” as provided in subdivision (b).

1 SEC. 39. Section 25299.54 of the Health and Safety Code is
2 amended to read:

3 25299.54. (a) Except as provided in subdivisions (b), (c), (d),
4 (e), (g), and (h), an owner or operator, required to perform
5 corrective action pursuant to Section 25296.10, or an owner or
6 operator who, as of January 1, 1988, is required to perform
7 corrective action, who has initiated this action in accordance with
8 Division 7 (commencing with Section 13000) of the Water Code,
9 who is undertaking corrective action in compliance with waste
10 discharge requirements or other orders issued pursuant to Division
11 7 (commencing with Section 13000) of the Water Code, or Chapter
12 6.7 (commencing with Section 25280), may apply to the board for
13 satisfaction of a claim filed pursuant to this article.

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

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

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

22 (2) The person did not initiate, on or before June 30, 1988, any
23 corrective action in accordance with Division 7 (commencing with
24 Section 13000) of the Water Code concerning the release, or the
25 person did not, on or before June 30, 1988, initiate corrective action
26 in accordance with Chapter 6.7 (commencing with Section 25280)
27 or the person did not initiate action on or before June 30, 1988, to
28 come into compliance with waste discharge requirements or other
29 orders issued pursuant to Division 7 (commencing with Section
30 13000) of the Water Code concerning the release.

31 (d) An owner or operator who violates Section 25296.10 or a
32 corrective action order, directive, notification, or approval order
33 issued pursuant to this chapter, Chapter 6.7 (commencing with
34 Section 25280) of this code, or Division 7 (commencing with
35 Section 13000) of the Water Code, is liable for a corrective action
36 cost that results from the owner's or operator's violation and is
37 ineligible to file a claim pursuant to this section.

38 (e) Notwithstanding this chapter, a person who owns a tank
39 located underground that is used to store petroleum may apply to
40 the board for satisfaction of a claim, and the board may pay the

1 claim pursuant to Section 25299.57 without making the finding
2 specified in paragraph (3) of subdivision (d) of Section 25299.57
3 if all of the following apply:

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

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

8 (B) The tank owner demonstrates that the tank is located on
9 property that, on and after January 1, 1985, is not used for
10 agricultural purposes, the tank is of a type specified in
11 subparagraph (B) of paragraph (1) of subdivision (y) of Section
12 25281, and the petroleum in the tank is used solely for the purposes
13 specified in subparagraph (B) of paragraph (1) of subdivision (y)
14 of Section 25281 on and after January 1, 1985.

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

19 (3) The claimant has complied with Section 25299.31 and the
20 permit requirements of Chapter 6.7 (commencing with Section
21 25280), or the claimant is not subject to the requirements of those
22 provisions.

23 (f) Whenever the board has authorized the prepayment of a
24 claim pursuant to Section 25299.57, and the amount of money
25 available in the fund is insufficient to pay the claim, the owner or
26 operator shall remain obligated to undertake the corrective action
27 in accordance with Section 25296.10.

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

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

37 (2) An insurer has made payments on behalf of the claimant
38 pursuant to an insurance contract and either of the following
39 applies:

1 (A) The insurance contract explicitly coordinates insurance
2 benefits with the fund and requires the claimant to do both of the
3 following:

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

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

9 (B) The claimant received a letter of commitment prior to June
10 30, 1999, for the occurrence and the claimant is required to
11 reimburse the insurer for any costs paid by the insurer pending
12 reimbursement of those costs by the fund.

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

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

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

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

34 (A) The claimant is the owner or operator of the underground
35 storage tank or tank specified in subdivision (e) that had an
36 occurrence that commenced prior to the owner's acquisition of the
37 real property.

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

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

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

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

16 (5) For purposes of this subdivision, the following definitions
17 shall apply:

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

20 (i) Familial relationship.

21 (ii) Fiduciary relationship.

22 (iii) A relationship of direct or indirect control or shared
23 interests.

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

26 (i) Parent corporation and subsidiary.

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

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

30 (iv) Corporate officer and corporation.

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

33 (vi) Partner and the partnership.

34 (vii) Member and a limited liability company.

35 (viii) Franchiser and franchisee.

36 (ix) Settlor, trustee, and beneficiary of a trust.

37 (x) Debtor and bankruptcy trustee or debtor-in-possession.

38 (xi) Principal and agent.

39 (C) “Familial relationship” means relationships between family
40 members, including, and limited to, a ~~husband, wife, spouse~~, child,

1 stepchild, parent, grandparent, grandchild, brother, sister,
2 stepbrother, stepsister, stepmother, stepfather, mother-in-law,
3 father-in-law, brother-in-law, sister-in-law, daughter-in-law,
4 son-in-law, and, if related by blood, uncle, aunt, niece, or nephew.

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

11 (i) The Legislature finds and declares that the changes made to
12 subparagraph (A) of paragraph (1) of subdivision (e) by Chapter
13 1290 of the Statutes of 1992 are declaratory of existing law.

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

17 SEC. 40. Section 32501 of the Health and Safety Code is
18 amended to read:

19 32501. Any person desiring in his *or her* lifetime to promote
20 the public welfare by founding, endowing, and having maintained
21 within this ~~State~~ *state* a hospital for the relief of the sick, and for
22 use as a training school for nurses may, by grant in writing, convey
23 to a trustee named in the grant and to the successor of such trustee,
24 any of his *or her* property situated within this ~~State~~ *state*. If he *or*
25 *she* is married and the property is community, both ~~he and his wife~~
26 *spouses* shall join in the grant.

27 SEC. 41. Section 10112 of the Insurance Code is amended to
28 read:

29 10112. Subject to Section 2459 of the Probate Code, in respect
30 to life or disability insurance, or annuity contracts (except as
31 provided in Sections 2500 to 2507, inclusive, of the Probate Code
32 and Section 3500 of the Probate Code and Chapter 4 (commencing
33 with Section 3600) of Part 8 of Division 4 of the Probate Code),
34 heretofore or hereafter issued to or upon the life of any person not
35 of the full age of 18 years for the benefit of such minor or for the
36 benefit of the father, mother, ~~husband, wife,~~ *spouse*, child, brother,
37 or sister, of such minor, or issued to such minor, subject to written
38 consent of a parent or guardian, upon the life of any person in
39 whom such minor has an insurable interest for the benefit of
40 himself or such minor’s father, mother, ~~husband, wife,~~ *spouse*,

1 child, brother or sister, such minor shall not, by reason only of
2 such minority, be deemed incompetent to contract for such
3 insurance or annuity, or for the surrender thereof, or to exercise
4 all contractual rights thereunder, or, subject to approval of a parent
5 or guardian, to give a valid discharge for any benefit accruing or
6 for any money payable thereunder; provided, that all such contracts
7 made by a minor under the age of 16 years, as determined by the
8 nearest birthday, shall have the written consent of a parent or
9 guardian, and that the exercise of all contractual rights under such
10 contracts, or the surrender thereof, or the giving of a valid discharge
11 for any benefit accruing or money payable thereunder, in the case
12 of a minor under the age of 16 years, as determined by the nearest
13 birthday, shall have the written consent of a parent or guardian.

14 All such contracts made by a minor not of the full age of 18
15 years which may result in any personal liability for assessment
16 shall have the written assumption of any such liability by a parent
17 or guardian in consideration of the issuance of the contract. Such
18 assumption shall be in a form approved by the commissioner,
19 reasonably designed to inform the parent or guardian of the liability
20 thus assumed.

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

27 SEC. 42. Section 10121.5 of the Insurance Code is amended
28 to read:

29 10121.5. (a) ~~When a husband and wife~~ *spouses* are both
30 employed as employees, and both have enrolled themselves and
31 their eligible family members under a group policy of disability
32 insurance provided by their respective employers, and each spouse
33 is covered as an employee under the terms of the same master
34 policy, each spouse may claim on his or her behalf, or on behalf
35 of his or her enrolled dependents, the combined maximum
36 contractual benefits to which an employee is entitled under the
37 terms of the master policy, not to exceed in the aggregate 100
38 percent of the charge for the covered expense or service.

39 (b) ~~When a husband and wife~~ *spouses* are both employed as
40 employees, and both have enrolled themselves and their eligible

1 family members under a self-insured employee welfare benefit
2 plan provided by their respective employers, and each spouse is
3 covered as an employee under the terms of the same master
4 contract, each spouse may claim on his or her behalf, or on behalf
5 of his or her enrolled dependents, the combined maximum
6 contractual benefits to which an employee is entitled under the
7 terms of the master contract, not to exceed in the aggregate 100
8 percent of the charge for the covered expense or service.

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

13 SEC. 43. Section 10320 of the Insurance Code is amended to
14 read:

15 10320. No policy of accident and sickness insurance shall be
16 delivered or issued for delivery to any person in this State unless:

17 (a) The entire money and other considerations therefor are
18 expressed therein; and

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

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

28 (d) The style, arrangement and over-all appearance of the policy
29 give no undue prominence to any portion of the text, and unless
30 every printed portion of the text of the policy and of any
31 endorsements or attached papers is plainly printed in light-faced
32 type of a style in general use, the size of which shall be uniform
33 and not less than 10-point with a lower case unspaced alphabet
34 length not less than 120-point (the "text" shall include all printed
35 matter except the name and address of the insurer, name or title
36 of the policy, the brief description, if any, and captions and
37 subcaptions); and

38 (e) The exceptions and reductions of indemnity are set forth in
39 the policy and, except those which are set forth in Article 4a or 5a
40 of this chapter, are printed, at the insurer's option, either included

1 with the benefit provision to which they apply, or under an
2 appropriate caption such as “Exceptions,” or “Exceptions and
3 Reductions”; provided, that if an exception or reduction specifically
4 applies only to a particular benefit of the policy, a statement of
5 such exception or reduction shall be included with the benefit
6 provision to which it applies; and

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

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

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

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

24 SEC. 44. Section 10493 of the Insurance Code is amended to
25 read:

26 10493. Any incorporated or unincorporated benefit and relief
27 association organized before January 15, 1951, may procure a
28 certificate of exemption from the commissioner if it complies with
29 all of the following:

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

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

33 (c) Any one of the following requirements as to membership
34 and purpose:

35 (1) It is composed of and its membership limited to the
36 appointive officers and employees of a public school district or
37 districts and/or the pupils of any such district or districts, or of any
38 private school or schools.

39 (2) It is composed of and its membership limited to the
40 appointive officers and employees of a municipal playground

1 system, or the systems of two or more municipalities united in a
2 league, federation or other association for the purpose of promoting
3 intercity competitions or other activities, and/or the participants
4 in dancing, recreational, sporting, educational, social and/or
5 theatrical activities sponsored and/or directed by such system or
6 systems and carried on through the use of any of the facilities of
7 such system or systems.

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

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

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

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

21 (B) Operates in such a manner that the payment of such benefits
22 even though it be one of the express purposes of such organization,
23 lodge or order, is as a matter of fact incidental to its charitable,
24 benevolent or beneficent purposes or within one year from
25 September 4, 1951, operates in such a manner and in both instances
26 thereafter operates in such a manner.

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

31 (d) Pays a filing fee in the amount of seven hundred eight dollars
32 (\$708).

33 SEC. 45. Section 10494.6 of the Insurance Code is amended
34 to read:

35 10494.6. Any employer who qualifies for a certificate of
36 exemption under Section 10494.5 by virtue of which certificate
37 he or she maintains a plan for furnishing disability benefits to his
38 or her employees may, if he or she elects, make available for the
39 related dependents of his or her employees, comprising ~~wives;~~
40 ~~husbands~~ *spouses* and unmarried dependent children living in the

1 same household, a supplemental plan of disability benefits
2 containing any or all of the following benefits, hospital, surgical
3 and medical; provided, that as to the supplemental plan the
4 Insurance Commissioner finds that all of the following exist:

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

7 (b) The plan shall set out the respective contributions of the
8 employer and employees. All contributions of employees received
9 or retained by the employer shall be trust funds and shall be
10 separately accounted for by the employer and may not inure to the
11 benefit of the employer in any manner whatsoever.

12 (c) The plan permits the disabled individual a free choice of
13 physician and surgeon, or podiatrist in the case of those services
14 that are within the scope of practice of podiatric medicine, as
15 defined in Section 2472 of the Business and Professions Code,
16 and hospital.

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

23 SEC. 46. Section 3503 of the Labor Code is amended to read:

24 3503. No person is a dependent of any deceased employee
25 unless in good faith a member of the family or household of the
26 employee, or unless the person bears to the employee the relation
27 of ~~husband or wife~~, *spouse*, child, posthumous child, adopted child
28 or stepchild, grandchild, father or mother, father-in-law or
29 mother-in-law, grandfather or grandmother, brother or sister, uncle
30 or aunt, brother-in-law or sister-in-law, *or* nephew or niece.

31 SEC. 47. Section 152.3 of the Penal Code is amended to read:

32 152.3. (a) Any person who reasonably believes that he or she
33 has observed the commission of any of the following offenses
34 where the victim is a child under the age of 14 years shall notify
35 a peace officer, as defined in Chapter 4.5 (commencing with
36 Section 830) of Title 3 of Part 2:

37 (1) Murder.

38 (2) Rape.

39 (3) A violation of paragraph (1) of subdivision (b) of Section
40 288 of the Penal Code.

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

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

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

11 (e) The requirements of this section shall not apply to the
12 following:

13 (1) A person who is related to either the victim or the offender,
14 including a ~~husband, wife, spouse~~, parent, child, brother, sister,
15 grandparent, grandchild, or other person related by consanguinity
16 or affinity.

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

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

21 SEC. 48. Section 197 of the Penal Code is amended to read:

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

24 1. When resisting any attempt to murder any person, or to
25 commit a felony, or to do some great bodily injury upon any
26 person; or,

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

33 3. When committed in the lawful defense of such person, or of
34 a ~~wife or husband~~, *spouse*, parent, child, master, mistress, or servant
35 of such person, when there is reasonable ground to apprehend a
36 design to commit a felony or to do some great bodily injury, and
37 imminent danger of such design being accomplished; but such
38 person, or the person in whose behalf the defense was made, if he
39 was the assailant or engaged in mutual combat, must really and in

1 good faith have endeavored to decline any further struggle before
2 the homicide was committed; or,

3 4. When necessarily committed in attempting, by lawful ways
4 and means, to apprehend any person for any felony committed, or
5 in lawfully suppressing any riot, or in lawfully keeping and
6 preserving the peace.

7 SEC. 49. Section 270e of the Penal Code is amended to read:

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

27 SEC. 50. Section 273.5 of the Penal Code is amended to read:

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

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

37 (1) The offender's spouse or former spouse.

38 (2) The offender's cohabitant or former cohabitant.

39 (3) The offender's fiancé or fiancée, or someone with whom
40 the offender has, or previously had, an engagement or dating

1 relationship, as defined in paragraph (10) of subdivision (f) of
2 Section 243.

3 (4) The mother or father of the offender’s child.

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

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

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

19 (f) (1) Any person convicted of violating this section for acts
20 occurring within seven years of a previous conviction under
21 subdivision (a), or subdivision (d) of Section 243, or Section 243.4,
22 244, 244.5, or 245, shall be punished by imprisonment in a county
23 jail for not more than one year, or by imprisonment in the state
24 prison for two, four, or five years, or by both imprisonment and a
25 fine of up to ten thousand dollars (\$10,000).

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

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

35 (h) If probation is granted, or the execution or imposition of a
36 sentence is suspended, for any defendant convicted under
37 subdivision (a) who has been convicted of any prior offense
38 specified in subdivision (f), the court shall impose one of the
39 following conditions of probation:

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

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

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

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

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

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

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

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

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

15 SEC. 51. Section 281 of the Penal Code is amended to read:

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

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

26 SEC. 52. Section 282 of the Penal Code is amended to read:

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

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

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

35 SEC. 53. Section 284 of the Penal Code is amended to read:

36 284. Every person who knowingly and willfully marries the
37 ~~husband or wife~~ *spouse* of another, in any case in which such
38 ~~husband or wife~~ *spouse* would be punishable under the provisions
39 of this chapter, is punishable by fine not less than five thousand

1 dollars (\$5,000), or by imprisonment pursuant to subdivision (h)
2 of Section 1170.

3 SEC. 54. Section 534 of the Penal Code is amended to read:

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

10 SEC. 55. Section 4002 of the Penal Code is amended to read:

11 4002. (a) Persons committed on criminal process and detained
12 for trial, persons convicted and under sentence, and persons
13 committed upon civil process, shall not be kept or put in the same
14 room, nor shall male and female prisoners, except ~~husband and~~
15 ~~wife~~, *spouses*, sleep, dress or undress, bathe, or perform eliminatory
16 functions in the same room. However, persons committed on
17 criminal process and detained for trial may be kept or put in the
18 same room with persons convicted and under sentence for the
19 purpose of participating in supervised activities and for the purpose
20 of housing, provided, that the housing occurs as a result of a
21 classification procedure that is based upon objective criteria,
22 including consideration of criminal sophistication, seriousness of
23 crime charged, presence or absence of assaultive behavior, age,
24 and other criteria that will provide for the safety of the prisoners
25 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 (c) 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. 56. 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 ~~husband and wife~~, *spouses*, (5) the continuity
26 of the relationship, 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. 57. 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 ~~husband~~
11 ~~and wife~~. *spouses*.

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

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

17 SEC. 58. Section 78 of the Probate Code is amended to read:

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

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

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

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

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

34 SEC. 59. Section 100 of the Probate Code is amended to read:

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

38 (b) Notwithstanding subdivision (a), ~~a husband and wife~~ *spouses*
39 may agree in writing to divide their community property on the
40 basis of a non pro rata division of the aggregate value of the

1 community property or on the basis of a division of each individual
2 item or asset of community property, or partly on each basis.
3 Nothing in this subdivision shall be construed to require this written
4 agreement in order to permit or recognize a non pro rata division
5 of community property.

6 SEC. 60. Section 101 of the Probate Code is amended to read:

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

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

18 SEC. 61. Section 103 of the Probate Code is amended to read:

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

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

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

31 SEC. 62. Section 2407 of the Probate Code is amended to read:

32 2407. This chapter applies to property owned by ~~husband and~~
33 ~~wife~~ *spouses* as community property only to the extent authorized
34 by Part 6 (commencing with Section 3000).

35 SEC. 63. Section 5040 of the Probate Code is amended to read:

36 5040. (a) Except as provided in subdivision (b), a nonprobate
37 transfer to the transferor's former spouse, in an instrument executed
38 by the transferor before or during the marriage, fails if, at the time
39 of the transferor's death, the former spouse is not the transferor's
40 surviving spouse as defined in Section 78, as a result of the

1 dissolution or annulment of the marriage. A judgment of legal
2 separation that does not terminate the status of ~~husband and wife~~
3 *spouses* is not a dissolution for purposes of this section.

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

6 (1) The nonprobate transfer is not subject to revocation by the
7 transferor at the time of the transferor's death.

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

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

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

16 (d) Nothing in this section affects the rights of a subsequent
17 purchaser or encumbrancer for value in good faith who relies on
18 the apparent failure of a nonprobate transfer under this section or
19 who lacks knowledge of the failure of a nonprobate transfer under
20 this section.

21 (e) As used in this section, "nonprobate transfer" means a
22 provision, other than a provision of a life insurance policy, of either
23 of the following types:

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

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

27 SEC. 64. Section 5042 of the Probate Code is amended to read:

28 5042. (a) Except as provided in subdivision (b), a joint tenancy
29 between the decedent and the decedent's former spouse, created
30 before or during the marriage, is severed as to the decedent's
31 interest if, at the time of the decedent's death, the former spouse
32 is not the decedent's surviving spouse as defined in Section 78, as
33 a result of the dissolution or annulment of the marriage. A judgment
34 of legal separation that does not terminate the status of ~~husband~~
35 ~~and wife~~ *spouses* is not a dissolution for purposes of this section.

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

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

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

3 (c) Nothing in this section affects the rights of a subsequent
4 purchaser or encumbrancer for value in good faith who relies on
5 an apparent severance under this section or who lacks knowledge
6 of a severance under this section.

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

10 SEC. 65. Section 5203 of the Probate Code is amended to read:

11 5203. (a) Words in substantially the following form in a
12 signature card, passbook, contract, or instrument evidencing an
13 account, or words to the same effect, executed before, on, or after
14 July 1, 1990, create the following accounts:

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

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

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

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

30 (5) Community property account of ~~husband and wife:~~ *spouses:*
31 “This account or certificate is the community property of the named
32 parties who are ~~husband and wife:~~ *spouses.* The ownership during
33 lifetime and after the death of a spouse is determined by the law
34 applicable to community property generally and may be affected
35 by a will.”

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

1 (b) Use of the form language provided in this section is not
2 necessary to create an account that is governed by this part. If the
3 contract of deposit creates substantially the same ~~relationship~~
4 *relationship* between the parties as an account created using the
5 form language provided in this section, this part applies to the
6 same extent as if the form language had been used.

7 SEC. 66. Section 6122 of the Probate Code is amended to read:

8 6122. (a) Unless the will expressly provides otherwise, if after
9 executing a will the testator's marriage is dissolved or annulled,
10 the dissolution or annulment revokes all of the following:

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

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

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

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

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

21 (1) Property prevented from passing to a former spouse because
22 of the revocation passes as if the former spouse failed to survive
23 the testator.

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

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

32 (e) Except as provided in Section 6122.1, no change of
33 circumstances other than as described in this section revokes a
34 will.

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

39 SEC. 67. Section 6227 of the Probate Code is amended to read:

1 6227. (a) If after executing a California statutory will the
2 testator’s marriage is dissolved or annulled, the dissolution or
3 annulment revokes any disposition of property made by the will
4 to the former spouse and any nomination of the former spouse as
5 executor, trustee, guardian, or custodian made by the will. If any
6 disposition or nomination is revoked solely by this section, it is
7 revived by the testator’s remarriage to the former spouse.

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

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

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

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

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

28 SEC. 68. Section 6240 of the Probate Code is amended to read:
29 6240. The following is the California Statutory Will form:

30

31 QUESTIONS AND ANSWERS ABOUT THIS CALIFORNIA
32 STATUTORY WILL

33

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

39

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

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

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

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

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

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

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

1 8. *Are there any reasons why I should NOT use this Statutory*
2 *Will?* Yes. This is a simple Will. It is not designed to reduce death
3 taxes or other taxes. Talk to a lawyer to do tax planning, especially
4 if (i) your assets will be worth more than \$600,000 or the current
5 amount excluded from estate tax under federal law at your death,
6 (ii) you own business-related assets, (iii) you want to create a trust
7 fund for your children’s education or other purposes, (iv) you own
8 assets in some other state, (v) you want to disinherit your spouse,
9 domestic partner, or descendants, or (vi) you have valuable interests
10 in pension or profit-sharing plans. You should talk to a lawyer
11 who knows about estate planning if this Will does not meet your
12 needs. This Will treats most adopted children like natural children.
13 You should talk to a lawyer if you have stepchildren or foster
14 children whom you have not adopted.

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

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

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

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

1 change your Will if you enter a domestic partnership or your
2 domestic partnership has been terminated after you sign this Will.

3 13. *What can I do if I do not understand something in this Will?*

4 If there is anything in this Will you do not understand, ask a lawyer
5 to explain it to you.

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

10 15. *Should I require a bond?* You may require that an executor
11 post a “bond.” A bond is a form of insurance to replace assets that
12 may be mismanaged or stolen by the executor. The cost of the
13 bond is paid from the estate’s assets.

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

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

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

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

35 20. *What is a trust?* There are many kinds of trusts, including
36 trusts created by Wills (called “testamentary trusts”) and trusts
37 created during your lifetime (called “revocable living trusts”). Both
38 kinds of trusts are long-term arrangements in which a manager
39 (called a “trustee”) invests and manages assets for someone (called
40 a “beneficiary”) on the terms you specify. Trusts are too

1 complicated to be used in this Statutory Will. You should see a
2 lawyer if you want to create a trust.

3 21. *What is a domestic partner?* You have a domestic partner
4 if you have met certain legal requirements and filed a form entitled
5 “Declaration of Domestic Partnership” with the Secretary of State.
6 Notwithstanding Section 299.6 of the Family Code, if you have
7 not filed a Declaration of Domestic Partnership with the Secretary
8 of State, you do not meet the required definition and should not
9 use the section of the Statutory Will form that refers to domestic
10 partners even if you have registered your domestic partnership
11 with another governmental entity. If you are unsure if you have a
12 domestic partner or if your domestic partnership meets the required
13 definition, please contact the Secretary of State’s office.

14
15 INSTRUCTIONS

16
17 1. *READ THE WILL.* Read the whole Will first. If you do not
18 understand something, ask a lawyer to explain it to you.

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

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

26 *You do not need to have this document notarized. Notarization
27 will not fulfill the witness requirement.

CALIFORNIA STATUTORY WILL OF

Print Your Full Name

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

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

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

[Empty box for Choice One signature]

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

[Empty box for Choice Two signature]

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

[Empty box for Choice Three name]

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

[Empty box for Choice Four names]

[Three horizontal lines for Choice Four names]

- 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. 69. Section 13500 of the Probate Code is amended to
2 read:

3 13500. Except as provided in this chapter, when a ~~husband or~~
4 ~~wife~~ *spouse* dies intestate leaving property that passes to the
5 surviving spouse under Section 6401, or dies testate and by his or
6 her will devises all or a part of his or her property to the surviving
7 spouse, the property passes to the survivor subject to the provisions
8 of Chapter 2 (commencing with Section 13540) and Chapter 3
9 (commencing with Section 13550), and no administration is
10 necessary.

11 SEC. 70. Section 13600 of the Probate Code is amended to
12 read:

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

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

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

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

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

1 living. The cost-of-living increase shall equal or exceed 1 percent
2 before any adjustment is made. The net amount payable may not
3 be decreased as a result of the cost-of-living adjustment.

4 SEC. 71. Section 17021 of the Revenue and Taxation Code is
5 amended to read:

6 17021. As used in this part, if the ~~husband and wife~~ *spouses*
7 therein referred to are divorced, wherever appropriate to the
8 meaning of this part, the term ~~“wife”~~ *“spouse”* shall be read
9 ~~“former wife”~~ and the term ~~“husband”~~ shall be read ~~“former~~
10 ~~husband.”~~ If the payments described in this part are made by or
11 on behalf of the wife or former wife to the husband or former
12 husband instead of vice versa, wherever appropriate to the meaning
13 of this part, the term ~~“husband”~~ shall be read ~~“wife”~~ and the term
14 ~~“wife”~~ shall be read ~~“husband.”~~ *spouse.*

15 SEC. 72. Section 17039 of the Revenue and Taxation Code is
16 amended to read:

17 17039. (a) Notwithstanding any provision in this part to the
18 contrary, for the purposes of computing tax credits, the term “net
19 tax” means the tax imposed under either Section 17041 or 17048
20 plus the tax imposed under Section 17504 (relating to lump-sum
21 distributions) less the credits allowed by Section 17054 (relating
22 to personal exemption credits) and any amount imposed under
23 paragraph (1) of subdivision (d) and paragraph (1) of subdivision
24 (e) of Section 17560. Notwithstanding the preceding sentence, the
25 “net tax” shall not be less than the tax imposed under Section
26 17504 (relating to the separate tax on lump-sum distributions), if
27 any. Credits shall be allowed against “net tax” in the following
28 order:

29 (1) Credits that do not contain carryover or refundable
30 provisions, except those described in paragraphs (4) and (5).

31 (2) Credits that contain carryover provisions but do not contain
32 refundable provisions, except for those that are allowed to reduce
33 “net tax” below the tentative minimum tax, as defined by Section
34 17062.

35 (3) Credits that contain both carryover and refundable
36 provisions.

37 (4) The minimum tax credit allowed by Section 17063 (relating
38 to the alternative minimum tax).

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

1 (6) Credits for taxes paid to other states allowed by Chapter 12
2 (commencing with Section 18001).

3 (7) Credits that contain refundable provisions but do not contain
4 carryover provisions.

5 The order within each paragraph shall be determined by the
6 Franchise Tax Board.

7 (b) Notwithstanding the provisions of Sections 17061 (relating
8 to refunds pursuant to the Unemployment Insurance Code) and
9 19002 (relating to tax withholding), the credits provided in those
10 sections shall be allowed in the order provided in paragraph (6) of
11 subdivision (a).

12 (c) (1) Notwithstanding any other provision of this part, no tax
13 credit shall reduce the tax imposed under Section 17041 or 17048
14 plus the tax imposed under Section 17504 (relating to the separate
15 tax on lump-sum distributions) below the tentative minimum tax,
16 as defined by Section 17062, except the following credits:

17 (A) The credit allowed by Section 17052.2 (relating to teacher
18 retention tax credit).

19 (B) The credit allowed by former Section 17052.4 (relating to
20 solar energy).

21 (C) The credit allowed by former Section 17052.5 (relating to
22 solar energy, repealed on January 1, 1987).

23 (D) The credit allowed by former Section 17052.5 (relating to
24 solar energy, repealed on December 1, 1994).

25 (E) The credit allowed by Section 17052.12 (relating to research
26 expenses).

27 (F) The credit allowed by former Section 17052.13 (relating to
28 sales and use tax credit).

29 (G) The credit allowed by former Section 17052.15 (relating to
30 Los Angeles Revitalization Zone sales tax credit).

31 (H) The credit allowed by Section 17052.25 (relating to the
32 adoption costs credit).

33 (I) The credit allowed by Section 17053.5 (relating to the
34 renter's credit).

35 (J) The credit allowed by former Section 17053.8 (relating to
36 enterprise zone hiring credit).

37 (K) The credit allowed by former Section 17053.10 (relating to
38 Los Angeles Revitalization Zone hiring credit).

39 (L) The credit allowed by former Section 17053.11 (relating to
40 program area hiring credit).

- 1 (M) For each taxable year beginning on or after January 1, 1994,
2 the credit allowed by former Section 17053.17 (relating to Los
3 Angeles Revitalization Zone hiring credit).
- 4 (N) The credit allowed by Section 17053.33 (relating to targeted
5 tax area sales or use tax credit).
- 6 (O) The credit allowed by Section 17053.34 (relating to targeted
7 tax area hiring credit).
- 8 (P) The credit allowed by Section 17053.49 (relating to qualified
9 property).
- 10 (Q) The credit allowed by Section 17053.70 (relating to
11 enterprise zone sales or use tax credit).
- 12 (R) The credit allowed by Section 17053.74 (relating to
13 enterprise zone hiring credit).
- 14 (S) The credit allowed by Section 17054 (relating to credits for
15 personal exemption).
- 16 (T) The credit allowed by Section 17054.5 (relating to the credits
17 for a qualified joint custody head of household and a qualified
18 taxpayer with a dependent parent).
- 19 (U) The credit allowed by Section 17054.7 (relating to the credit
20 for a senior head of household).
- 21 (V) The credit allowed by former Section 17057 (relating to
22 clinical testing expenses).
- 23 (W) The credit allowed by Section 17058 (relating to
24 low-income housing).
- 25 (X) For taxable years beginning on or after January 1, 2014, the
26 credit allowed by Section 17059.2 (relating to GO-Biz California
27 Competes Credit).
- 28 (Y) The credit allowed by Section 17061 (relating to refunds
29 pursuant to the Unemployment Insurance Code).
- 30 (Z) Credits for taxes paid to other states allowed by Chapter 12
31 (commencing with Section 18001).
- 32 (AA) The credit allowed by Section 19002 (relating to tax
33 withholding).
- 34 (AB) For taxable years beginning on or after January 1, 2014,
35 the credit allowed by Section 17053.86 (relating to the College
36 Access Tax Credit Fund).
- 37 (AC) For taxable years beginning on or after January 1, 2017,
38 the credit allowed by Section 17053.87 (relating to the College
39 Access Tax Credit Fund).

1 (2) Any credit that is partially or totally denied under paragraph
2 (1) shall be allowed to be carried over and applied to the net tax
3 in succeeding taxable years, if the provisions relating to that credit
4 include a provision to allow a carryover when that credit exceeds
5 the net tax.

6 (d) Unless otherwise provided, any remaining carryover of a
7 credit allowed by a section that has been repealed or made
8 inoperative shall continue to be allowed to be carried over under
9 the provisions of that section as it read immediately prior to being
10 repealed or becoming inoperative.

11 (e) (1) Unless otherwise provided, if two or more taxpayers
12 (other than ~~husband and wife~~ *spouses*) share in costs that would
13 be eligible for a tax credit allowed under this part, each taxpayer
14 shall be eligible to receive the tax credit in proportion to his or her
15 respective share of the costs paid or incurred.

16 (2) In the case of a partnership, the credit shall be allocated
17 among the partners pursuant to a written partnership agreement in
18 accordance with Section 704 of the Internal Revenue Code, relating
19 to partner's distributive share.

20 (3) In the case of a ~~husband and wife~~ *spouses* who file separate
21 returns, the credit may be taken by either or equally divided
22 between them.

23 (f) Unless otherwise provided, in the case of a partnership, any
24 credit allowed by this part shall be computed at the partnership
25 level, and any limitation on the expenses qualifying for the credit
26 or limitation upon the amount of the credit shall be applied to the
27 partnership and to each partner.

28 (g) (1) With respect to any taxpayer that directly or indirectly
29 owns an interest in a business entity that is disregarded for tax
30 purposes pursuant to Section 23038 and any regulations thereunder,
31 the amount of any credit or credit carryforward allowable for any
32 taxable year attributable to the disregarded business entity shall
33 be limited in accordance with paragraphs (2) and (3).

34 (2) The amount of any credit otherwise allowed under this part,
35 including any credit carryover from prior years, that may be applied
36 to reduce the taxpayer's "net tax," as defined in subdivision (a),
37 for the taxable year shall be limited to an amount equal to the
38 excess of the taxpayer's regular tax (as defined in Section 17062),
39 determined by including income attributable to the disregarded
40 business entity that generated the credit or credit carryover, over

1 the taxpayer’s regular tax (as defined in Section 17062), determined
2 by excluding the income attributable to that disregarded business
3 entity. No credit shall be allowed if the taxpayer’s regular tax (as
4 defined in Section 17062), determined by including the income
5 attributable to the disregarded business entity, is less than the
6 taxpayer’s regular tax (as defined in Section 17062), determined
7 by excluding the income attributable to the disregarded business
8 entity.

9 (3) If the amount of a credit allowed pursuant to the section
10 establishing the credit exceeds the amount allowable under this
11 subdivision in any taxable year, the excess amount may be carried
12 over to subsequent taxable years pursuant to subdivisions (c) and
13 (d).

14 (h) (1) Unless otherwise specifically provided, in the case of a
15 taxpayer that is a partner or shareholder of an eligible pass-thru
16 entity described in paragraph (2), any credit passed through to the
17 taxpayer in the taxpayer’s first taxable year beginning on or after
18 the date the credit is no longer operative may be claimed by the
19 taxpayer in that taxable year, notwithstanding the repeal of the
20 statute authorizing the credit prior to the close of that taxable year.

21 (2) For purposes of this subdivision, “eligible pass-thru entity”
22 means any partnership or “S” corporation that files its return on a
23 fiscal year basis pursuant to Section 18566, and that is entitled to
24 a credit pursuant to this part for the taxable year that begins during
25 the last year the credit is operative.

26 (3) This subdivision shall apply to credits that become
27 inoperative on or after the operative date of the act adding this
28 subdivision.

29 SEC. 73. Section 17045 of the Revenue and Taxation Code is
30 amended to read:

31 17045. In the case of a joint return of a ~~husband and wife~~
32 *married couple* under Section 18521, the tax imposed by Section
33 17041 shall be twice the tax which would be imposed if the taxable
34 income were cut in half.

35 For purposes of this section, a return of a surviving spouse (as
36 defined in Section 17046) shall be treated as a joint return of a
37 ~~husband and wife~~. *married couple*.

38 SEC. 74. Section 17053.5 of the Revenue and Taxation Code
39 is amended to read:

1 17053.5. (a) (1) For a qualified renter, there shall be allowed
2 a credit against his or her “net tax,” as defined in Section 17039.
3 The amount of the credit shall be as follows:

4 (A) For married couples filing joint returns, heads of household,
5 and surviving spouses, as defined in Section 17046, the credit shall
6 be equal to one hundred twenty dollars (\$120) if adjusted gross
7 income is fifty thousand dollars (\$50,000) or less.

8 (B) For other individuals, the credit shall be equal to sixty dollars
9 (\$60) if adjusted gross income is twenty-five thousand dollars
10 (\$25,000) or less.

11 (2) Except as provided in subdivision (b), a ~~husband and wife~~
12 *married couple* shall receive but one credit under this section. If
13 the ~~husband and wife~~ *spouses* file separate returns, the credit may
14 be taken by either or equally divided between them, except as
15 follows:

16 (A) If one spouse was a resident for the entire taxable year and
17 the other spouse was a nonresident for part or all of the taxable
18 year, the resident spouse shall be allowed one-half the credit
19 allowed to married persons and the nonresident spouse shall be
20 permitted one-half the credit allowed to married persons, prorated
21 as provided in subdivision (e).

22 (B) If both spouses were nonresidents for part of the taxable
23 year, the credit allowed to married persons shall be divided equally
24 between them subject to the proration provided in subdivision (e).

25 (b) For a ~~husband and wife~~, *married couple*, if each spouse
26 maintained a separate place of residence and resided in this state
27 during the entire taxable year, each spouse will be allowed one-half
28 the full credit allowed to married persons provided in subdivision
29 (a).

30 (c) For purposes of this section, a “qualified renter” means an
31 individual who satisfies both of the following:

32 (1) Was a resident of this state, as defined in Section 17014.

33 (2) Rented and occupied premises in this state which constituted
34 his or her principal place of residence during at least 50 percent
35 of the taxable year.

36 (d) “Qualified renter” does not include any of the following:

37 (1) An individual who for more than 50 percent of the taxable
38 year rented and occupied premises that were exempt from property
39 taxes, except that an individual, otherwise qualified, is deemed a
40 qualified renter if he or she or his or her landlord pays possessory

1 interest taxes, or the owner of those premises makes payments in
2 lieu of property taxes that are substantially equivalent to property
3 taxes paid on properties of comparable market value.

4 (2) An individual whose principal place of residence for more
5 than 50 percent of the taxable year is with another person who
6 claimed that individual as a dependent for income tax purposes.

7 (3) An individual who has been granted or whose spouse has
8 been granted the homeowners' property tax exemption during the
9 taxable year. This paragraph does not apply to an individual whose
10 spouse has been granted the homeowners' property tax exemption
11 if each spouse maintained a separate residence for the entire taxable
12 year.

13 (e) An otherwise qualified renter who is a nonresident for any
14 portion of the taxable year shall claim the credits set forth in
15 subdivision (a) at the rate of one-twelfth of those credits for each
16 full month that individual resided within this state during the
17 taxable year.

18 (f) A person claiming the credit provided in this section shall,
19 as part of that claim, and under penalty of perjury, furnish that
20 information as the Franchise Tax Board prescribes on a form
21 supplied by the board.

22 (g) The credit provided in this section shall be claimed on returns
23 in the form as the Franchise Tax Board may from time to time
24 prescribe.

25 (h) For purposes of this section, "premises" means a house or
26 a dwelling unit used to provide living accommodations in a
27 building or structure and the land incidental thereto, but does not
28 include land only, unless the dwelling unit is a mobilehome. The
29 credit is not allowed for any taxable year for the rental of land
30 upon which a mobilehome is located if the mobilehome has been
31 granted a homeowners' exemption under Section 218 in that year.

32 (i) This section shall become operative on January 1, 1998, and
33 applies to any taxable year beginning on or after January 1, 1998.

34 (j) For each taxable year beginning on or after January 1, 1999,
35 the Franchise Tax Board shall recompute the adjusted gross income
36 amounts set forth in subdivision (a). The computation shall be
37 made as follows:

38 (1) The Department of Industrial Relations shall transmit
39 annually to the Franchise Tax Board the percentage change in the
40 California Consumer Price Index for all items from June of the

1 prior calendar year to June of the current year, no later than August
2 1 of the current calendar year.

3 (2) The Franchise Tax Board shall compute an inflation
4 adjustment factor by adding 100 percent to the portion of the
5 percentage change figure which is furnished pursuant to paragraph
6 (1) and dividing the result by 100.

7 (3) The Franchise Tax Board shall multiply the amount in
8 subparagraph (B) of paragraph (1) of subdivision (d) for the
9 preceding taxable year by the inflation adjustment factor
10 determined in paragraph (2), and round off the resulting products
11 to the nearest one dollar (\$1).

12 (4) In computing the amounts pursuant to this subdivision, the
13 amounts provided in subparagraph (A) of paragraph (1) of
14 subdivision (a) shall be twice the amount provided in subparagraph
15 (B) of paragraph (1) of subdivision (a).

16 SEC. 75. Section 17054 of the Revenue and Taxation Code is
17 amended to read:

18 17054. In the case of individuals, the following credits for
19 personal exemption may be deducted from the tax imposed under
20 Section 17041 or 17048, less any increases imposed under
21 paragraph (1) of subdivision (d) or paragraph (1) of subdivision
22 (e), or both, of Section 17560.

23 (a) In the case of a single individual, a head of household, or a
24 married individual making a separate return, a credit of fifty-two
25 dollars (\$52).

26 (b) In the case of a surviving spouse (as defined in Section
27 17046), or a ~~husband and wife~~ *married couple* making a joint
28 return, a credit of one hundred four dollars (\$104). If one spouse
29 was a resident for the entire taxable year and the other spouse was
30 a nonresident for all or any portion of the taxable year, the personal
31 exemption shall be divided equally.

32 (c) In addition to any other credit provided in this section, in
33 the case of an individual who is 65 years of age or over by the end
34 of the taxable year, a credit of fifty-two dollars (\$52).

35 (d) (1) A credit of two hundred twenty-seven dollars (\$227)
36 for each dependent (as defined in Section 17056) for whom an
37 exemption is allowable under Section 151(c) of the Internal
38 Revenue Code, relating to additional exemption for dependents.
39 The credit allowed under this subdivision for taxable years
40 beginning on or after January 1, 1999, shall not be adjusted

1 pursuant to subdivision (i) for any taxable year beginning before
2 January 1, 2000.

3 (2) (A) For taxable years beginning on or after January 1, 2015,
4 a credit shall not be allowed under paragraph (1) with respect to
5 any individual unless the identification number, as defined in
6 Section 6109 of the Internal Revenue Code, of that individual is
7 included on the return claiming the credit.

8 (B) A disallowance of a credit due to the omission of a correct
9 identification number required under this paragraph, may be
10 assessed by the Franchise Tax Board in the same manner as is
11 provided by Section 19051 in the case of a mathematical error
12 appearing on the return. A claimant shall have the right to claim
13 a credit or refund of adjusted amounts within the period provided
14 in Section 19306, 19307, 19308, or 19311, whichever period
15 expires later.

16 (3) (A) For taxable years beginning on or after January 1, 2009,
17 the credit allowed under paragraph (1) for each dependent shall
18 be equal to the credit allowed under subdivision (a). This
19 subparagraph shall cease to be operative for taxable years beginning
20 on or after January 1, 2011, unless the Director of Finance makes
21 the notification pursuant to Section 99040 of the Government
22 Code, in which case this subparagraph shall cease to be operative
23 for taxable years beginning on or after January 1, 2013.

24 (B) For taxable years that subparagraph (A) ceases to be
25 operative, the credit allowed under paragraph (1) for each
26 dependent shall be equal to the amount that would be allowed if
27 subparagraph (A) had never been operative.

28 (e) A credit for personal exemption of fifty-two dollars (\$52)
29 for the taxpayer if he or she is blind at the end of his or her taxable
30 year.

31 (f) A credit for personal exemption of fifty-two dollars (\$52)
32 for the spouse of the taxpayer if a separate return is made by the
33 taxpayer, and if the spouse is blind and, for the calendar year in
34 which the taxable year of the taxpayer begins, has no gross income
35 and is not the dependent of another taxpayer.

36 (g) For the purposes of this section, an individual is blind only
37 if either (1) his or her central visual acuity does not exceed 20/200
38 in the better eye with correcting lenses, or (2) his or her visual
39 acuity is greater than 20/200 but is accompanied by a limitation

1 in the fields of vision such that the widest diameter of the visual
2 field subtends an angle no greater than 20 degrees.

3 (h) In the case of an individual with respect to whom a credit
4 under this section is allowable to another taxpayer for a taxable
5 year beginning in the calendar year in which the individual's
6 taxable year begins, the credit amount applicable to that individual
7 for that individual's taxable year is zero.

8 (i) For each taxable year beginning on or after January 1, 1989,
9 the Franchise Tax Board shall compute the credits prescribed in
10 this section. That computation shall be made as follows:

11 (1) The California Department of Industrial Relations shall
12 transmit annually to the Franchise Tax Board the percentage change
13 in the California Consumer Price Index for all items from June of
14 the prior calendar year to June of the current calendar year, no
15 later than August 1 of the current calendar year.

16 (2) The Franchise Tax Board shall add 100 percent to the
17 percentage change figure which is furnished to them pursuant to
18 paragraph (1), and divide the result by 100.

19 (3) The Franchise Tax Board shall multiply the immediately
20 preceding taxable year credits by the inflation adjustment factor
21 determined in paragraph (2), and round off the resulting products
22 to the nearest one dollar (\$1).

23 (4) In computing the credits pursuant to this subdivision, the
24 credit provided in subdivision (b) shall be twice the credit provided
25 in subdivision (a).

26 SEC. 76. Section 17077 of the Revenue and Taxation Code is
27 amended to read:

28 17077. Section 68 of the Internal Revenue Code, relating to
29 overall limitation on itemized deductions, shall apply, except as
30 otherwise provided.

31 (a) "Six percent" shall be substituted for "3 percent" in Section
32 68(a)(1) of the Internal Revenue Code.

33 (b) Section 68(b)(1) of the Internal Revenue Code shall not
34 apply and in lieu thereof the term "applicable amount" in each
35 place it appears in Section 68(a) of the Internal Revenue Code
36 means one hundred thousand dollars (\$100,000) in the case of a
37 single individual or a married individual filing a separate return,
38 one hundred fifty thousand dollars (\$150,000) in the case of a head
39 of household, and two hundred thousand dollars (\$200,000) in the

1 case of a surviving spouse or a ~~husband and wife~~ *married couple*
2 filing a joint return.

3 (c) Section 68(b)(2) of the Internal Revenue Code, relating to
4 inflation adjustments, shall not apply. However, for any taxable
5 year beginning on or after January 1, 1992, the applicable amounts
6 specified in subdivision (b) shall be recomputed annually in the
7 same manner as the recomputation of income tax brackets under
8 subdivision (h) of Section 17041.

9 (d) Section 68(f) of the Internal Revenue Code, relating to
10 phaseout of limitation, shall not apply.

11 (e) Section 68(g) of the Internal Revenue Code, relating to
12 termination, shall not apply.

13 SEC. 77. Section 17555 of the Revenue and Taxation Code is
14 amended to read:

15 17555. In any case where ~~husband and wife~~ *spouses* file
16 separate returns, the Franchise Tax Board may distribute, ~~apportion~~
17 *apportion*, or allocate gross income between the spouses, if it is
18 determined that such distribution, ~~apportionment~~ *apportionment*,
19 or allocation is necessary in order to reflect the proper income of
20 the spouses.

21 SEC. 78. Section 18501 of the Revenue and Taxation Code is
22 amended to read:

23 18501. (a) Every individual taxable under Part 10
24 (commencing with Section 17001) shall make a return to the
25 Franchise Tax Board, stating specifically the items of the
26 individual's gross income from all sources and the deductions and
27 credits allowable, if the individual has any of the following for the
28 taxable year:

29 (1) An adjusted gross income from all sources in excess of eight
30 thousand dollars (\$8,000), if single.

31 (2) An adjusted gross income from all sources in excess of
32 sixteen thousand dollars (\$16,000), if married.

33 (3) A gross income from all sources in excess of ten thousand
34 dollars (\$10,000), if single, and twenty thousand dollars (\$20,000),
35 if married, regardless of the amount of adjusted gross income.

36 (4) In the case of an individual described in Section 63(c)(5) of
37 the Internal Revenue Code, relating to limitation on basic standard
38 deduction in the case of certain dependents, a gross income from
39 all sources that exceeds the amount of the standard deduction
40 allowed under that section.

1 (b) If a ~~husband and wife~~ *married couple* has for the
2 taxable year an adjusted gross income from all sources in excess
3 of sixteen thousand dollars (\$16,000) or a gross income from all
4 sources in excess of twenty thousand dollars (\$20,000), each *spouse*
5 shall make a return or the income of each shall be included on a
6 single joint return as otherwise provided in this article.

7 (c) For any individual described in paragraph (1) or (2), the
8 Franchise Tax Board shall recompute the amounts provided in
9 subdivision (b) and paragraphs (1) to (3), inclusive, of subdivision
10 (a) as follows:

11 (1) For any individual eligible to claim the credit described in
12 subdivision (c) of Section 17054, the Franchise Tax Board shall
13 increase the income amounts described in subdivision (b) and
14 paragraphs (1) to (3), inclusive, of subdivision (a), as adjusted by
15 subdivision (d), by the quotient provided by dividing the credit
16 described in subdivision (c) of Section 17054, as adjusted in
17 subdivision (i) of Section 17054, by 2 percent.

18 (2) For any individual or married couple eligible to claim the
19 credit described in subdivision (d) of Section 17054, the Franchise
20 Tax Board shall increase the income amounts described in
21 subdivision (b) or paragraphs (1) to (3), inclusive, of subdivision
22 (a), as adjusted by subdivision (d), by the quotient provided by
23 dividing each credit described in subdivision (d) of Section 17054,
24 as adjusted in subdivision (i) of Section 17054, by the following:

25 (A) If the individual or married couple is not eligible to claim
26 the credit allowed in subdivision (c) of Section 17054, 3 percent
27 for the first dependent credit and 4 percent for the second dependent
28 credit, if any.

29 (B) If the individual or married couple is eligible to claim the
30 credit allowed in subdivision (c) of Section 17054, 4 percent for
31 the first dependent credit and 5 percent for the second dependent
32 credit, if any.

33 (d) For each taxable year beginning on or after January 1, 1996,
34 the Franchise Tax Board shall recompute the income amounts
35 prescribed in paragraphs (1) to (3), inclusive, of subdivision (a)
36 and in subdivision (b), as follows:

37 (1) The Department of Industrial Relations shall transmit
38 annually to the Franchise Tax Board the percentage change in the
39 California Consumer Price Index for all items from June of the

1 prior calendar year to June of the current calendar year, no later
2 than August 1 of the current calendar year.

3 (2) The Franchise Tax Board shall do both of the following:

4 (A) Compute an inflation adjustment factor by adding 100
5 percent to the percentage change figure that is furnished pursuant
6 to paragraph (1) and dividing the result by 100.

7 (B) Multiply the income amounts for the preceding taxable year
8 by the inflation adjustment factor determined in subparagraph (A)
9 and round off the resulting products to the nearest one dollar (\$1).

10 (e) The changes to subdivision (c) made by the act adding this
11 subdivision shall apply to each taxable year beginning on or after
12 January 1, 1999.

13 SEC. 79. Section 18522 of the Revenue and Taxation Code is
14 amended to read:

15 18522. If an individual has filed a separate return for a taxable
16 year for which a joint return could have been made by him or her
17 and his or her spouse under Section 18521, and the time prescribed
18 for filing the return for that taxable year has expired, that individual
19 and his or her spouse may nevertheless make a joint return for that
20 taxable year, provided a joint federal income tax return is made
21 under the provisions of Section 6013(b) of the Internal Revenue
22 Code. A joint return filed by the ~~husband and wife~~ *married couple*
23 in that case shall constitute the return of the ~~husband and wife~~
24 *married couple* for that taxable year, and all payments, credits,
25 refunds, or other repayments made or allowed with respect to the
26 separate return of either spouse for that taxable year shall be taken
27 into account in determining the extent to which the tax based upon
28 the joint return has been paid.

29 SEC. 80. Section 18530 of the Revenue and Taxation Code is
30 amended to read:

31 18530. Where the amount shown as the tax by the ~~husband~~
32 ~~and wife~~ *married couple* on a joint return made under Section
33 18522 exceeds the aggregate of the amounts shown as the tax upon
34 the separate return of each spouse, each of the following shall
35 apply:

36 (a) If any part of the excess is attributable to negligence or
37 intentional disregard of rules and regulations (but without intent
38 to defraud) at the time of the making of the separate return, then
39 20 percent of the total amount of the excess shall be assessed,

1 ~~collected~~ *collected*, and paid, in lieu of the 20 percent addition to
2 the tax provided in subdivision (a) of Section 19164.

3 (b) If any part of the excess is attributable to fraud with intent
4 to evade tax at the time of the making of the separate return, then
5 75 percent of the total amount of the excess shall be assessed,
6 ~~collected~~ *collected*, and paid, in lieu of the 75 percent addition to
7 the tax provided in subdivision (b) of Section 19164.

8 SEC. 81. Section 18531.5 of the Revenue and Taxation Code
9 is amended to read:

10 18531.5. For purposes of Section 443 of the Internal Revenue
11 Code, where the ~~husband and wife~~ *spouses* have different taxable
12 years because of the death of either spouse, the joint return shall
13 be treated as if the taxable years of both spouses ended on the date
14 of the closing of the surviving spouse's taxable year.

15 SEC. 82. Section 18532 of the Revenue and Taxation Code is
16 amended to read:

17 18532. For the purposes of this article, each of the following
18 shall apply:

19 (a) The status as ~~husband and wife~~ *married* of two individuals
20 having taxable years beginning on the same day shall be determined
21 as follows:

22 (1) If both have the same taxable year, then as of the close of
23 that year.

24 (2) If one dies before the close of the taxable year of the other,
25 then as of the time of the death.

26 (b) An individual who is legally separated from his or her spouse
27 under a decree of divorce or of separate maintenance shall not be
28 considered as married.

29 (c) If a joint return is made, the tax shall be computed on the
30 aggregate income and the liability with respect to the tax shall be
31 joint and several.

32 SEC. 83. Section 19006 of the Revenue and Taxation Code is
33 amended to read:

34 19006. (a) The spouse who controls the disposition of or who
35 receives or spends community income as well as the spouse who
36 is taxable on the income is liable for the payment of the taxes
37 imposed by Part 10 (commencing with Section 17001) on that
38 income.

39 (b) Whenever a joint return is filed by a ~~husband and wife~~,
40 *married couple*, the liability for the tax on the aggregate income

1 is joint and several. The liability may be revised by a court in a
2 proceeding for dissolution of the marriage of the ~~husband and wife,~~
3 *married couple*, provided:

4 (1) The order revising tax liability may not relieve a spouse of
5 tax liability on income earned by or subject to the exclusive
6 management and control of the spouse. The liability of the spouse
7 for the tax, penalties, and interest due for the taxable year shall be
8 in the same ratio to total tax, penalties, and interest due for the
9 taxable year as the income earned by or subject to the management
10 and control of the spouse is to total gross income reportable on the
11 return.

12 (2) The order revising tax liability:

13 (A) Must separately state the income tax liabilities for the
14 taxable years for which revision of tax liability is granted.

15 (B) Shall not revise a tax liability that has been fully paid prior
16 to the effective date of the order; however, any unpaid amount
17 may be revised.

18 (C) Shall become effective when the Franchise Tax Board is
19 served with or acknowledges receipt of the order.

20 (D) Shall not be effective if the gross income reportable on the
21 return exceeds one hundred fifty thousand dollars (\$150,000) or
22 the amount of tax liability the spouse is relieved of exceeds seven
23 thousand five hundred dollars (\$7,500), unless a tax revision
24 clearance certificate is obtained from the Franchise Tax Board and
25 filed with the court.

26 (c) Notwithstanding subdivisions (a) and (b), whenever a joint
27 return is filed by a ~~husband~~ *married couple* and ~~wife~~ and the tax
28 liability is not fully paid, that liability, including interest and
29 penalties, may be revised by the Franchise Tax Board as to one
30 spouse.

31 (1) However, the liability shall not be revised:

32 (A) To relieve a spouse of tax liability on income earned by or
33 subject to the exclusive management and control of the spouse.
34 The liability of the spouse for the tax, penalties, and interest due
35 for the taxable year shall be in the same ratio to total tax, penalties,
36 and interest due for the taxable year as the income earned by or
37 subject to the management and control of the spouse is to total
38 gross income reportable on the return.

1 (B) To relieve a spouse of liability below the amount actually
2 paid on the liability prior to the granting of relief, including credit
3 from any other taxable year available for application to the liability.

4 (2) The liability may be revised only if the spouse whose liability
5 is to be revised establishes that he or she did not know of, and had
6 no reason to know of, the nonpayment at the time the return was
7 filed. For purposes of this paragraph, “reason to know” means
8 whether or not a reasonably prudent person would have had reason
9 to know of the nonpayment.

10 (3) For purposes of this section, the determination of the spouse
11 to whom items of gross income are attributable shall be made
12 without regard to community property laws.

13 (4) The determination of the Franchise Tax Board as to whether
14 the liability is to be revised as to one spouse shall be made not less
15 than 30 days after notification of the other spouse and shall be
16 based upon whether, under all of the facts and circumstances
17 surrounding the nonpayment, it would be inequitable to hold the
18 spouse requesting revision liable for the nonpayment. Any action
19 taken under this section shall be treated as though it were action
20 on a protest taken under Section 19044 and shall become final
21 upon the expiration of 30 days from the date that notice of the
22 action is mailed to both spouses, unless, within that 30-day period,
23 one or both spouses appeal the determination to the board as
24 provided in Section 19045.

25 (5) This subdivision shall apply to all taxable years subject to
26 the provisions of this part, but shall not apply to any taxable year
27 which has been closed by a statute of limitations, *res judicata*, or
28 otherwise.

29 SEC. 84. Section 19035 of the Revenue and Taxation Code is
30 amended to read:

31 19035. In the case of a joint return filed by ~~husband and wife,~~
32 *a married couple*, the notice of proposed deficiency assessment
33 may be a single joint notice, except that if the Franchise Tax Board
34 is notified by either spouse that separate residences have been
35 established, it shall mail to each spouse, in lieu of the single joint
36 notice, duplicate originals of the joint notice.

37 SEC. 85. Section 19107 of the Revenue and Taxation Code is
38 amended to read:

39 19107. Where an overpayment is made by any individual for
40 any year, and a deficiency is owing from the ~~husband or wife~~

1 *spouse* of the taxpayer for the same year, and both ~~husband and~~
2 ~~wife spouses~~ notify the Franchise Tax Board in writing prior to
3 the expiration of the time within which credit for the overpayment
4 may be allowed that the overpayment may be credited against the
5 deficiency, no interest shall be assessed on that portion of the
6 deficiency as is extinguished by the credit for the period of time
7 subsequent to the date the overpayment was made.

8 SEC. 86. Section 19110 of the Revenue and Taxation Code is
9 amended to read:

10 19110. (a) When the correction of an erroneous inclusion or
11 deduction of an item or items in the computation of income of a
12 trust, estate, parent, ~~husband~~, or ~~wife spouse~~ for any year results
13 in an overpayment for that year by the trust, estate, parent, ~~husband~~,
14 or ~~wife, spouse~~, and also results in a deficiency for the same year
15 for a grantor of the trust or beneficiary of the estate or trust, or
16 child of the parent, or spouse of the child, or the spouse of the
17 ~~husband or wife, spouse~~, the overpayment, if the period within
18 which credit for the overpayment may be allowed has not expired,
19 shall be credited on the deficiency, if the period within which the
20 deficiency may be proposed has not expired, and the balance, if
21 any, shall be credited or refunded. No interest shall be assessed
22 on the portion of the deficiency as is extinguished by the credit
23 for the period of time subsequent to the date the overpayment was
24 made.

25 (b) When the correction of an erroneous inclusion or deduction
26 of an item or items in the computation of income of a grantor of
27 a trust, beneficiary of an estate or trust, a child, or spouse of the
28 child, or a ~~husband or wife spouse~~ for any year results in an
29 overpayment for that year by the grantor, beneficiary, ~~child child~~,
30 or ~~husband or wife, spouse~~, and also results in a deficiency for the
31 same year for the grantor's or beneficiary's trust, the beneficiary's
32 estate, the child's parent, or spouse of the child, or the beneficiary's
33 spouse, the overpayment, if the period within which credit for the
34 overpayment may be allowed has not expired, shall be credited on
35 the deficiency, if the period within which the deficiency may be
36 proposed has not expired, and the balance, if any, shall be credited
37 or refunded. No interest shall be assessed on the portion of the
38 deficiency as is extinguished by the credit for the period of time
39 subsequent to the date the overpayment was made.

1 (c) Subdivisions (a) and (b) are not intended, nor shall they be
2 construed as a limitation on the Franchise Tax Board's right to
3 offset or recoup barred assessments against overpayments.

4 SEC. 87. Section 19701.5 of the Revenue and Taxation Code
5 is amended to read:

6 19701.5. (a) Any person who signs his or her spouse's name
7 on any income tax return, or any schedules or attachments thereto,
8 or who files electronically pursuant to Section 18621.5, without
9 the consent of the spouse as provided in subdivision (b), is guilty
10 of a misdemeanor and shall upon conviction be fined an amount
11 not to exceed five thousand dollars (\$5,000) or be imprisoned for
12 a term not to exceed one year, or both, at the discretion of the court,
13 together with costs of investigation and prosecution.

14 (b) Notwithstanding subdivision (a), any person who signs his
15 or her spouse's name shall not be guilty of a misdemeanor when
16 one spouse is physically unable by reason of disease or injury to
17 sign a joint return, and the other spouse, with the oral consent of
18 the one who is incapacitated, signs the incapacitated spouse's name
19 in the proper place on the return followed by the words "By _____,
20 *Spouse (or Husband-(or or Wife),*" and by the signature of the
21 signing spouse in his or her own right, provided that a dated
22 statement signed by the spouse who is signing the return is attached
23 to and made a part of the return stating each of the following:

24 (1) The name of the return being filed.

25 (2) The taxable year.

26 (3) The reason for the inability of the spouse who is
27 incapacitated to sign the return.

28 (4) That the spouse who is incapacitated consented to the signing
29 of the return and that the taxpayer and his or her agent, if any, are
30 responsible for the return as made and incur liability for the
31 penalties provided for erroneous, false, or fraudulent returns.

32 (c) The penalties provided by this section are cumulative and
33 shall not be construed as restricting any other penalty provided by
34 law based upon the same facts, including any penalty under Section
35 470 of the Penal Code. However, an act or omission which is made
36 punishable in different ways by this section and different provisions
37 of the Penal Code shall not be punished under more than one
38 provision.

39 SEC. 88. Section 20542 of the Revenue and Taxation Code is
40 amended to read:

1 20542. (a) The Franchise Tax Board, pursuant to the provisions
2 of Article 3 (commencing with Section 20561), of this chapter,
3 shall provide assistance to the claimant based on a percentage of
4 the property tax accrued and paid by the claimant on the residential
5 dwelling as provided in Section 20543 or the statutory property
6 tax equivalent pursuant to Section 20544. In case of an
7 owner-claimant, the assistance shall be equal to the applicable
8 percentage of property taxes paid on the full value of the residential
9 dwelling up to, and including, thirty-four thousand dollars
10 (\$34,000). No assistance shall be allowed for property taxes paid
11 on that portion of full value of a residential dwelling exceeding
12 thirty-four thousand dollars (\$34,000). No assistance shall be
13 provided if the amount of the assistance claim is five dollars (\$5)
14 or less.

15 (b) For purposes of allowing assistance provided for by this
16 section:

17 (1) (A) Only one owner-claimant from one household each
18 year shall be entitled to assistance under this chapter. When two
19 or more individuals of a household are able to meet the
20 qualifications for an owner-claimant, they may determine who the
21 owner-claimant shall be. If they are unable to agree, the matter
22 shall be referred to the Franchise Tax Board and its decision shall
23 be final.

24 (B) When two or more individuals pay rent for the same
25 premises and each individual meets the qualifications for a
26 renter-claimant, each qualified individual shall be entitled to
27 assistance under this part.

28 For the purposes of this subparagraph, ~~a husband and wife~~
29 *spouses* residing in the same premises shall be presumed to be one
30 renter.

31 (2) Except as provided in paragraph (3), the right to file a claim
32 shall be personal to the claimant and shall not survive his *or her*
33 death; however, when a claimant dies after having filed a timely
34 claim, the amount thereof may be disbursed to the surviving spouse
35 and, if no surviving spouse, to any other member of the household
36 who is a qualified claimant. If there is no surviving spouse or
37 otherwise qualified claimant, the claim shall be disbursed to any
38 other member of the household. In the event two or more
39 individuals qualify for payment as either an otherwise qualified
40 claimant or a member of the household, they may determine which

1 of them will be paid. If they are unable to agree, the matter shall
2 be referred to the Franchise Tax Board and its decision shall be
3 final.

4 (3) If, after January 1 of the property tax fiscal year for which
5 a claim may be filed, a claimant dies without filing a timely claim,
6 a claim on behalf of such claimant may be filed by the surviving
7 spouse within the filing period prescribed in subdivision (a) or (b)
8 of Section 20563.

9 (4) If an individual postponed taxes for any given property tax
10 fiscal year under Chapter 2 (commencing with Section 20581),
11 Chapter 3 (commencing with Section 20625), Chapter 3.3
12 (commencing with Section 20639), or Chapter 3.5 (commencing
13 with Section 20640), then any claim for assistance under this
14 chapter for the same property tax fiscal year shall be filed by such
15 individual (assuming all other eligibility requirements in this
16 chapter are satisfied) and not an otherwise qualified member of
17 the individual's household.

18 SEC. 89. Section 2804 of the Streets and Highways Code is
19 amended to read:

20 2804. (a) This division does not apply to irrigation districts,
21 irrigation district improvement districts, fire districts, fire protection
22 districts, or public cemetery districts, or to any proceeding
23 otherwise subject to this division when one or more of the
24 following situations exist:

25 (1) The proceedings are undertaken by a district or public
26 corporation within one year of its incorporation.

27 (2) The improvement proceedings are by a chartered city,
28 chartered county, or a county sanitation district which is governed
29 ex officio by the board of supervisors of a chartered county, and
30 the city, county, or district has complied with Section 19 of Article
31 XVI of the California Constitution.

32 (3) All of the owners of more than 60 percent in area of the
33 property subject to assessment for the proposed improvements
34 have signed and filed with the clerk or secretary of the legislative
35 body undertaking the proceedings a written petition for the
36 improvements meeting the requirements of Section 2804.5.

37 (b) As used in this section, "substantially described" means that
38 additional improvements of the same or similar nature may not be
39 provided unless the estimated cost of the improvements does not

1 exceed 10 percent of the estimated cost of the improvements
2 provided in the former report.

3 (c) As used in this section, “owner of land” means only a person
4 who, at the time the petition is filed with the clerk or secretary of
5 the legislative body, appears to be the owner upon the assessor’s
6 roll or, in the case of transfers of land, or parts thereof, subsequent
7 to the date upon which the last assessor’s roll was prepared, appear
8 to be the owner on the records in the county assessor’s office which
9 the county assessor will use to prepare the next assessor’s roll. If
10 any person signing the petition appears on the assessor’s roll or
11 the records in the county assessor’s office as an owner of property
12 as a joint tenant or tenant in common, or as a ~~husband or wife,~~
13 *spouse*, that property shall be counted as if all those persons had
14 signed the petition.

15 SEC. 90. Section 13003 of the Unemployment Insurance Code
16 is amended to read:

17 13003. (a) Except where the context otherwise requires, the
18 definitions set forth in this chapter, and in addition the definitions
19 and provisions of the Personal Income Tax Law referred to and
20 hereby incorporated by reference as set forth in the following
21 provisions of the Revenue and Taxation Code, shall apply to and
22 govern the construction of this division:

- 23 (1) “Corporation” as defined by Section 17009.
- 24 (2) “Fiduciary” as defined by Section 17006.
- 25 (3) “Fiscal year” as defined by Section 17011.
- 26 (4) “Foreign country” as defined by Section 17019.
- 27 (5) “Franchise Tax Board” as defined by Section 17003.
- 28 (6) ~~“Husband” and “wife”~~ “*Spouse*” as defined by Section
29 17021.
- 30 (7) “Individual” as defined by Section 17005.
- 31 (8) “Military or naval forces” as defined by Section 17022.
- 32 (9) “Nonresident” as defined by Section 17015.
- 33 (10) “Partnership” as defined by Section 17008.
- 34 (11) “Person” as defined by Section 17007.
- 35 (12) “Resident” as defined by Sections 17014 and 17016.
- 36 (13) “State” as defined by Section 17018.
- 37 (14) “Taxable year” as defined by Section 17010.
- 38 (15) “Taxpayer” as defined by Section 17004.
- 39 (16) “Trade or business” as defined by Section 17020.
- 40 (17) “United States” as defined by Section 17017.

1 (b) The provisions of Part 10 (commencing with Section 17001)
2 and Part 10.2 (commencing with Section 18401) of Division 2 of
3 the Revenue and Taxation Code, relating to the following items,
4 are hereby incorporated by reference and shall apply to and govern
5 construction of this division:

6 (1) Trade or business expense (Article 6 (commencing with
7 Section 17201) of Chapter 3 of Part 10).

8 (2) Deductions for retirement savings (Article 6 (commencing
9 with Section 17201) of Chapter 3 of Part 10).

10 (3) Distributions of property by a corporation to a shareholder
11 (Chapter 4 (commencing with Section 17321) of Part 10).

12 (4) Deferred compensation (Chapter 5 (commencing with
13 Section 17501) of Part 10).

14 (5) Partners and partnerships (Chapter 10 (commencing with
15 Section 17851) of Part 10).

16 (6) Gross income of nonresident taxpayers ~~Chapter~~ (*Chapter*
17 11 (commencing with Section 17951) of Part 10).

18 (7) Postponement of the time for certain acts by individuals in
19 or in support of the armed forces (Article 3 (commencing with
20 Section 18621) of Chapter 2 of Part 10.2).

21 (8) Disclosure of information (Article 2 (commencing with
22 Section 19542) of Chapter 7 of Part 10.2). For this purpose
23 “Franchise Tax Board” as used therein shall mean the Employment
24 Development Department in respect to information obtained in
25 the administration of this division.

26 SEC. 91. Section 742.16 of the Welfare and Institutions Code
27 is amended to read:

28 742.16. (a) If a minor is found to be a person described in
29 Section 602 by reason of the commission of an act prohibited by
30 Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal
31 Code, and the court does not remove the minor from the physical
32 custody of the parent or guardian, the court as a condition of
33 probation, except in any case in which the court makes a finding
34 and states on the record its reasons why that condition would be
35 inappropriate, shall require the minor to wash, paint, repair, or
36 replace the property defaced, damaged, or destroyed by the minor
37 or otherwise pay restitution to the probation officer of the county
38 for disbursement to the owner or possessor of the property or both.
39 In any case in which the minor is not granted probation or in which
40 the minor’s cleanup, repair, or replacement of the property will

1 not return the property to its condition before it was defaced,
2 damaged, or destroyed, the court shall make a finding of the
3 amount of restitution that would be required to fully compensate
4 the owner and possessor of the property for their damages. The
5 court shall order the minor or the minor's estate to pay that
6 restitution to the probation officer of the county for disbursement
7 to the owner or possessor of the property or both, to the extent the
8 court determines that the minor or the minor's estate have the
9 ability to do so, except in any case in which the court makes a
10 finding and states on the record its reasons why full restitution
11 would be inappropriate. If full restitution is found to be
12 inappropriate, the court shall require the minor to perform specified
13 community service, except in any case in which the court makes
14 a finding and states on the record its reasons why that condition
15 would be inappropriate.

16 (b) If a minor is found to be a person described in Section 602
17 by reason of the commission of an act prohibited by Section 594,
18 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the
19 graffiti or other material inscribed by the minor has been removed,
20 or the property defaced by the minor has been repaired or replaced
21 by a public entity that has elected, pursuant to Section 742.14, to
22 have the probation officer of the county recoup its costs through
23 proceedings in accordance with this section and has made cost
24 findings in accordance with ~~subdivisions~~ *subdivision* (c) or (d) of
25 Section 742.14, the court shall determine the total cost incurred
26 by the public entity for said removal, repair, or replacement, using,
27 if applicable, the cost findings most recently adopted by the public
28 entity pursuant to subdivision (c) or (d) of Section 742.14. The
29 court shall order the minor or the minor's estate to pay those costs
30 to the probation officer of the county to the extent the court
31 determines that the minor or the minor's estate have the ability to
32 do so.

33 (c) If the minor is found to be a person described in Section 602
34 by reason of the commission of an act prohibited by Section 594,
35 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code, and the
36 minor was identified or apprehended by the law enforcement
37 agency of a city or county that has elected, pursuant to Section
38 742.14, to have the probation officer of the county recoup its costs
39 through proceedings in accordance with this section, the court shall
40 determine the cost of identifying or apprehending the minor, or

1 both, using, if applicable, the cost findings adopted by the city or
2 county pursuant to subdivision (b) of Section 742.14. The court
3 shall order the minor or the minor's estate to pay those costs to
4 the probation officer of the county to the extent the court
5 determines that the minor or the minor's estate has the ability to
6 do so.

7 (d) If the court determines that the minor or the minor's estate
8 is unable to pay in full the costs and damages determined pursuant
9 to subdivisions (a), (b), and (c), and if the minor's parent or parents
10 have been cited into court pursuant to Section 742.18, the court
11 shall hold a hearing to determine the liability of the minor's parent
12 or parents pursuant to Section 1714.1 of the Civil Code for those
13 costs and damages. Except when the court makes a finding setting
14 forth unusual circumstances in which parental liability would not
15 serve the interests of justice, the court shall order the minor's parent
16 or parents to pay those costs and damages to the probation officer
17 of the county to the extent the court determines that the parent or
18 parents have the ability to pay, if the minor was in the custody or
19 control of the parent or parents at the time he or she committed
20 the act that forms the basis for the finding that the minor is a person
21 described in Section 602. In evaluating the parent's or parents'
22 ability to pay, the court shall take into consideration the family
23 income, the necessary obligations of the family, and the number
24 of persons dependent upon this income.

25 (e) The hearing described in subdivision (d) may be held
26 immediately following the disposition hearing or at a later date,
27 at the option of the court.

28 (f) If the amount of costs and damages sought to be recovered
29 in the hearing pursuant to subdivision (d) is five thousand dollars
30 (\$5,000) or less, the parent or parents may not be represented by
31 counsel and the probation officer of the county shall be represented
32 by his or her nonattorney designee. The court shall conduct that
33 hearing in accordance with Sections 116.510 and 116.520 of the
34 Code of Civil Procedure. Notwithstanding the foregoing, if the
35 court determines that a parent cannot properly present his or her
36 defense, the court may, in its discretion, allow another individual
37 to assist that parent. In addition, a ~~husband or wife~~ *spouse* may
38 appear and participate in the hearing on behalf of his or her spouse
39 if the representative's spouse has given his or her consent and the

1 court determines that the interest of justice would be served
2 thereby.

3 (g) If the amount of costs and damages sought to be recovered
4 in the hearing pursuant to subdivision (d) exceeds five thousand
5 dollars (\$5,000), the parent or parents may be represented by
6 counsel of his or her or their own choosing, and the probation
7 officer of the county shall be represented by the district attorney
8 or an attorney or nonattorney designee of the probation officer.
9 The parent or parents shall not be entitled to court-appointed
10 counsel or to counsel compensated at public expense.

11 (h) At the hearing conducted pursuant to subdivision (d), there
12 shall be a presumption affecting the burden of proof that the
13 findings of the court made pursuant to subdivisions (a), (b), and
14 (c) represent the actual damages and costs attributable to the act
15 of the minor that forms the basis of the finding that the minor is a
16 person described in Section 602.

17 (i) If the parent or parents, after having been cited to appear
18 pursuant to Section 742.18, fail to appear as ordered, the court
19 shall order the parent or parents to pay the full amount of the costs
20 and damages determined by the court pursuant to subdivisions (a),
21 (b), and (c).

22 (j) Execution may be issued on an order issued by the court
23 pursuant to this section in the same manner as on a judgment in a
24 civil action, including any balance unpaid at the termination of the
25 court's jurisdiction over the minor.

26 (k) At any time prior to the satisfaction of a judgment entered
27 pursuant to this section, a person against whom the judgment was
28 entered may petition the rendering court to modify or vacate the
29 judgment on the showing of a change in circumstances relating to
30 his or her ability to pay the judgment.

31 (l) For purposes of a hearing conducted pursuant to subdivision
32 (d), the judge of the juvenile court shall have the jurisdiction of a
33 judge of the superior court in a limited civil case, and if the amount
34 of the demand is within the jurisdictional limits stated in Sections
35 116.220 and 116.221 of the Code of Civil Procedure, the judge of
36 the juvenile court shall have the powers of a judge presiding over
37 the small claims court.

38 (m) Nothing in this section shall be construed to limit the
39 authority of a juvenile court to provide conditions of probation.

1 (n) The options available to the court pursuant to subdivisions
2 (a), (b), (c), (d), and (k), to order payment by the minor and his or
3 her parent or parents of less than the full costs described in
4 subdivisions (a), (b), and (c), on grounds of financial inability or
5 for reasons of justice, shall not be available to a superior court in
6 an ordinary civil proceeding pursuant to subdivision (b) of Section
7 1714.1 of the Civil Code, except that in any proceeding pursuant
8 to either subdivision (b) of Section 1714.1 of the Civil Code or
9 this section, the maximum amount that a parent or a minor may
10 be ordered to pay shall not exceed twenty thousand dollars
11 (\$20,000) for each tort of the minor.

12 SEC. 92. Section 7275 of the Welfare and Institutions Code is
13 amended to read:

14 7275. (a) ~~The husband, wife, spouse, father, mother, or children~~
15 of a patient in a state hospital, the estates of these persons, and the
16 guardian or conservator and administrator of the estate of the
17 patient shall cause him or her to be properly and suitably cared for
18 and maintained, and shall pay the costs and charges for
19 transportation to a state institution. ~~The husband, wife, spouse,~~
20 father, mother, or children of a patient in a state hospital and the
21 administrators of their estates, and the estate of the person shall
22 be liable for his or her care, support, and maintenance in a state
23 institution of which he or she is a patient. The liability of these
24 persons and estates shall be a joint and several liability, and the
25 liability shall exist whether the person has become a patient of a
26 state institution pursuant to the provisions of this code or pursuant
27 to the provisions of Sections 1026, 1368, 1369, 1370, and 1372 of
28 the Penal Code.

29 (b) This section does not impose liability for the care of persons
30 with intellectual disabilities in state hospitals.

31 SEC. 93. Section 12003 of the Welfare and Institutions Code
32 is amended to read:

33 12003. For the purposes of this chapter, neither the residence
34 nor domicile of the ~~husband or wife~~ *spouse* shall be deemed the
35 residence or domicile of the other, but each may have a separate
36 residence or domicile dependent upon proof of the fact and not on
37 legal presumption.

38 For the purposes of this chapter, a minor child shall be deemed
39 to have resided in the state during any period in which such child
40 has been physically present in the state.

1 SEC. 94. Section 14140 of the Welfare and Institutions Code
2 is amended to read:

3 14140. The following definitions shall apply to the provisions
4 of this article:

5 (a) “Net worth” means:

6 (1) Personal property, which consists of cash, savings accounts,
7 securities, and similar items; notes, ~~mortgages~~ *mortgages*, and
8 deeds of trust; the cash surrender value of life insurance on the life
9 of the applicant or beneficiary, on the life of the spouse or any
10 member of the family, except as provided in Section 11158; motor
11 vehicles, except one which meets the transportation needs of the
12 person or family; any other property or equity other than real estate,
13 except that property specified in subdivisions (1), (2) and (3) of
14 Section 11155.

15 (2) Real property, including any interest in land of more than
16 nominal interest which does not constitute the home of the
17 applicant for aid under this chapter. The home of the applicant
18 shall be exempt from consideration as net worth under this section
19 to the extent of ten thousand dollars (\$10,000) in assessed
20 valuation, as assessed by the county assessor.

21 (3) “Income” which consists of the sum of adjusted gross income
22 as used for purposes of the Federal Income Tax Law.

23 (b) “Family unit” means:

24 (1) In the case of an unmarried patient under 21 years of age
25 living with his *or her* parent or parents, the patient and his *or her*
26 parents.

27 (2) In the case of a married patient under 21 years of age, the
28 patient and his *or her* spouse.

29 (3) In the case of a patient over 21, the patient, and if married,
30 the patient’s ~~wife~~. *spouse*.

31 SEC. 95. Section 18291 of the Welfare and Institutions Code
32 is amended to read:

33 18291. For purposes of this chapter:

34 (a) “Domestic violence” means abuse committed against an
35 adult or a minor who is a spouse, former spouse, cohabitant, former
36 cohabitant, or person with whom the suspect has had a child or is
37 having or has had a dating or engagement relationship.

38 (b) “Cohabitant” means two unrelated adult persons living
39 together for a substantial period of time, resulting in some
40 permanency of relationship. Factors that may determine whether

- 1 persons are cohabiting include, but are not limited to, all of the
2 following:
- 3 (1) Sexual relations between the parties while sharing the same
4 living quarters.
 - 5 (2) Sharing of income or expenses.
 - 6 (3) Joint use or ownership of property.
 - 7 (4) Whether the parties hold themselves out as ~~husband and~~
8 ~~wife~~ *spouses*.
 - 9 (5) The continuity of the relationship.
 - 10 (6) The length of the relationship.
- 11 (c) “Domestic violence shelter” means a shelter for domestic
12 violence victims that meets all of the following requirements:
- 13 (1) Provides shelter in an undisclosed and secured location.
 - 14 (2) Provides staff that meet the requirements set forth in Section
15 1037.1 of the Evidence Code.
 - 16 (3) Meets the requirements set forth in Section 18294.
 - 17 (d) “Undisclosed” means a location that is not advertised or
18 publicized.