

AMENDED IN ASSEMBLY JUNE 6, 2016

AMENDED IN SENATE MARCH 16, 2016

SENATE BILL

No. 1005

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

February 10, 2016

An act to amend Section 17537.1 of, and to add Section 14.2 to, the Business and Professions Code, to amend Sections 14, 50, 51.3, 51.11, 682, 682.1, 683, 1099, 1569, and 3390 of the Civil Code, to amend Sections 17, 116.540, 371, 703.140, and 704.930 of the Code of Civil Procedure, to amend Section 1201 of the Commercial Code, to amend Sections 158, 704, 5612, 7612, 12482, 25102, and 25206 of, and to add Section 12.2 to, the Corporations Code, to amend Sections 21100, 24803, and 68062 of, and to add Section 73.2 to, the Education Code, to add Section 356.5 to the Elections Code, to amend Sections 917 and 980 of, and to add Section 215 to, the Evidence Code, to add Section 143 to the Family Code, to amend Sections 14860, 18220, 18523, and 22327 of, and to add Section 11.2 to, the Financial Code, to amend Section 8552.3 of, and to add Section 9.2 to, the Fish and Game Code, to add Section 36 to the Food and Agricultural Code, to amend Sections 9359.9, 9374, 21571, 21572, and 21573 of, and to add Section 12.2 to, the Government Code, to add Section 12.2 to the Harbors and Navigation Code, to amend Sections 1373.5, 18080, 25299.54, and 32501 of, and to add Section 12.2 to, the Health and Safety Code, to amend Sections 10112, 10121.5, 10320, 10493, and 10494.6 of, and to add Section 12.2 to, the Insurance Code, to amend Section 3503 of, and to add Section 12.2 to, the Labor Code, to add Section 19 to the Military and Veterans Code, to amend Sections 7, 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, and to add Section 72 to, the Probate Code, to amend Section 10430 of add Section 11005 to the Public Contract Code, to add Section 12.2 to the Public Resources Code, to add Section 12.2 to the Public Utilities 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, and to add Section 12.2 to, the Revenue and Taxation Code, to amend Section 2804 of, and to add Section 12.2 to, the Streets and Highways Code, to amend Section 13003 of, and to add Section 11.2 to, the Unemployment Insurance Code, to add Section 12.2 to the Vehicle Code, to add Section 12.2 to the Water Code, and to amend Sections 742.16, 7275, 12003, 14140, and 18291 of, and to add Section 12.2 to, the Welfare and Institutions Code, relating to marriage.

LEGISLATIVE COUNSEL'S DIGEST

SB 1005, as amended, 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. Under existing law, registered domestic partners have the same rights, protections, and benefits, and are subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon spouses. Existing law requires, where necessary to implement the rights of registered domestic partners, gender-specific terms referring to spouses to be construed to include domestic partners.

The bill would replace references to a “husband” or “wife” with references to a “spouse,” would define “spouse” as including “domestic registered domestic partner,” 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 14.2 is added to the Business and
2 Professions Code, to read:

3 14.2. “Spouse” includes—~~domestic~~ “*registered domestic*
4 *partner,*” as ~~described in Section 297~~ *required by Section 297.5* of
5 the Family Code.

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

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

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

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

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

1 a sales presentation and the approximate duration of the visit and
2 sales presentation.

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

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

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

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

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

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

30 (ii) Any other conditions, such as a minimum age qualification,
31 a financial qualification, or a requirement that if the recipient is
32 ~~married, both spouses, or if the recipient is part of a registered~~
33 ~~domestic partnership, both domestic partners, married or in a~~
34 ~~registered domestic partnership, both spouses~~ must be present in
35 order to receive the incentive. Any financial qualifications shall
36 be stated with a specificity sufficient to enable the recipient to
37 reasonably determine his or her eligibility.

38 (C) A statement that the owner or provider identified pursuant
39 to subparagraph (A) of paragraph (1) reserves the right to provide

1 a raincheck, or a substitute or like incentive, if those rights are
2 reserved.

3 (D) A statement that a recipient who receives an offered
4 incentive may request and will receive evidence showing that the
5 incentive provided matches the incentive randomly or otherwise
6 selected for distribution to that recipient.

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

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

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

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

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

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

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

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

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

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

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

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

30 (3) Misrepresent in any manner the odds of receiving any
31 particular incentive.

32 (4) Represent directly or by implication that the number of
33 participants has been significantly limited or that any person has
34 been selected to receive a particular incentive unless that is the
35 fact.

36 (5) Label any offer a notice of termination or notice of
37 cancellation.

38 (6) Misrepresent, in any manner, the offer, plan, or program or
39 the affiliation, connection, association, or contractual relationship

1 between the person making the offer and the owner or provider,
2 if they are not the same.

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

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

20 14. (a) Words used in this code in the present tense include
21 the future as well as the present; words used in the masculine
22 gender include the feminine and neuter; the singular number
23 includes the plural, and the plural the singular; the word person
24 includes a corporation as well as a natural person; county includes
25 city and county; writing includes printing and typewriting; oath
26 includes affirmation or declaration; and every mode of oral
27 statement, under oath or affirmation, is embraced by the term
28 “testify,” and every written one in the term “depose”; signature or
29 subscription includes mark, when the person cannot write, his
30 name being written near it, by a person who writes his own name
31 as a witness; *provided*, that when a signature is by mark it must in
32 order that the same may be acknowledged or may serve as the
33 signature to any sworn statement be witnessed by two persons who
34 must subscribe their own names as witnesses thereto.

35 (b) The following words have in this code the signification
36 attached to them in this section, unless otherwise apparent from
37 the context:

38 (1) The word “property” includes property real and personal.

39 (2) The words “real property” are coextensive with lands,
40 tenements, and hereditaments.

1 (3) The words “personal property” include money, goods,
2 chattels, things in action, and evidences of debt.

3 (4) The word “month” means a calendar month, unless otherwise
4 expressed.

5 (5) The word “will” includes codicil.

6 (6) The word “section” whenever hereinafter employed refers
7 to a section of this code, unless some other code or statute is
8 expressly mentioned.

9 (7) The word “spouse” includes a *registered* domestic partner,
10 ~~as described in Section 297 required by Section 297.5~~ of the Family
11 Code.

12 SEC. 4. Section 50 of the Civil Code is amended to read:

13 50. Any necessary force may be used to protect from wrongful
14 injury the person or property of oneself, or of a spouse, ~~domestic~~
15 ~~partner~~, child, parent, or other relative, or member of one’s family,
16 or of a ward, servant, master, or guest.

17 SEC. 5. Section 51.3 of the Civil Code is amended to read:

18 51.3. (a) The Legislature finds and declares that this section
19 is essential to establish and preserve specially designed accessible
20 housing for senior citizens. There are senior citizens who need
21 special living environments and services, and find that there is an
22 inadequate supply of this type of housing in the state.

23 (b) For the purposes of this section, the following definitions
24 apply:

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

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

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

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

37 (3) “Qualified permanent resident” also means a disabled person
38 or person with a disabling illness or injury who is a child or
39 grandchild of the senior citizen or a qualified permanent resident
40 as defined in paragraph (2) who needs to live with the senior citizen

1 or qualified permanent resident because of the disabling condition,
2 illness, or injury. For purposes of this section, “disabled” means
3 a person who has a disability as defined in subdivision (b) of
4 Section 54. A “disabling injury or illness” means an illness or
5 injury which results in a condition meeting the definition of
6 disability set forth in subdivision (b) of Section 54.

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

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

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

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

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

37 (4) “Senior citizen housing development” means a residential
38 development developed, substantially rehabilitated, or substantially
39 renovated for, senior citizens that has at least 35 dwelling units.
40 Any senior citizen housing development which is required to obtain

1 a public report under Section 11010 of the Business and Professions
2 Code and which submits its application for a public report after
3 July 1, 2001, shall be required to have been issued a public report
4 as a senior citizen housing development under Section 11010.05
5 of the Business and Professions Code. No housing development
6 constructed prior to January 1, 1985, shall fail to qualify as a senior
7 citizen housing development because it was not originally
8 developed or put to use for occupancy by senior citizens.

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

11 (6) “Cohabitant” refers to persons who live together as spouses
12 or persons who are domestic partners within the meaning of Section
13 297 of the Family Code.

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

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

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

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

35 Upon written request by the senior citizen or an authorized
36 person acting for the senior citizen, the owner, board of directors,
37 or governing board shall have the discretion to allow a permitted
38 health care resident to remain for a time period longer than 90 days
39 from the date that the senior citizen’s absence began, if it appears

1 that the senior citizen will return within a period of time not to
2 exceed an additional 90 days.

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

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

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

32 (f) The condominium, stock cooperative, limited-equity housing
33 cooperative, planned development, or multiple-family residential
34 rental property shall have been developed for, and initially been
35 put to use as, housing for senior citizens, or shall have been
36 substantially rehabilitated or renovated for, and immediately
37 afterward put to use as, housing for senior citizens, as provided in
38 this section; provided, however, that no housing development
39 constructed prior to January 1, 1985, shall fail to qualify as a senior
40 citizen housing development because it was not originally

1 developed for or originally put to use for occupancy by senior
2 citizens.

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

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

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

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

25 SEC. 6. Section 51.11 of the Civil Code is amended to read:

26 51.11. (a) The Legislature finds and declares that this section
27 is essential to establish and preserve housing for senior citizens.
28 There are senior citizens who need special living environments,
29 and find that there is an inadequate supply of this type of housing
30 in the state.

31 (b) For the purposes of this section, the following definitions
32 apply:

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

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

38 (A) Was residing with the qualifying resident or senior citizen
39 prior to the death, hospitalization, or other prolonged absence of,

1 or the dissolution of marriage with, the qualifying resident or senior
2 citizen.

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

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

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

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

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

38 (ii) Giving due consideration to the relevant, credible, and
39 objective information provided in that hearing. The evidence shall
40 be taken and held in a confidential manner, pursuant to a closed

1 session, by the owner, board of directors, or other governing body
2 in order to preserve the privacy of the affected persons.

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

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

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

21 (6) “Cohabitant” refers to persons who live together as spouses
22 or persons who are domestic partners within the meaning of Section
23 297 of the Family Code.

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

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

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

39 (B) The absent senior citizen or an authorized person acting for
40 the senior citizen submits a written request to the owner, board of

1 directors, or governing board stating that the senior citizen desires
2 that the permitted health care resident be allowed to remain in
3 order to be present when the senior citizen returns to reside in the
4 development.

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

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

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

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

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

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

13 (h) A housing development may qualify as a senior citizen
14 housing development under this section even though, as of January
15 1, 1997, it does not meet the definition of a senior citizen housing
16 development specified in subdivision (b), if the development
17 complies with that definition for every unit that becomes occupied
18 after January 1, 1997, and if the development was once within that
19 definition, and then became noncompliant with the definition as
20 the result of any one of the following:

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

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

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

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

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

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

13 SEC. 7. Section 682 of the Civil Code is amended to read:

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

15 (a) Of joint interest.

16 (b) Of partnership interests.

17 (c) Of interests in common.

18 (d) Of community interest of ~~spouses or domestic partners.~~
19 *wives.*

20 SEC. 8. Section 682.1 of the Civil Code is amended to read:

21 682.1. (a) Community property of ~~spouses or domestic~~
22 ~~partners, wives,~~ when expressly declared in the transfer document
23 to be community property with right of survivorship, and which
24 may be accepted in writing on the face of the document by a
25 statement signed or initialed by the grantees, shall, upon the death
26 of one of the ~~spouses or domestic partners, wives,~~ pass to the
27 survivor, without administration, pursuant to the terms of the
28 instrument, subject to the same procedures, as property held in
29 joint tenancy. Prior to the death of either ~~spouse or domestic~~
30 ~~partner, wife,~~ the right of survivorship may be terminated
31 pursuant to the same procedures by which a joint tenancy may be
32 severed. Part 1 (commencing with Section 5000) of Division 5
33 of the Probate Code and Chapter 2 (commencing with Section
34 13540), Chapter 3 (commencing with Section ~~13550~~ 13550), and
35 Chapter 3.5 (commencing with Section 13560) of Part 2 of Division
36 8 of the Probate Code apply to this property.

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

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

3 SEC. 9. Section 683 of the Civil Code is amended to read:

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

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

20 SEC. 10. Section 1099 of the Civil Code is amended to read:

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

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

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

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

14 SEC. 11. Section 1569 of the Civil Code is amended to read:

15 1569. Duress consists in any of the following:

16 (a) Unlawful confinement of the person of the party, or of the
17 spouse ~~or domestic partner~~ of such party, or of an ancestor,
18 descendant, or adopted child of such ~~party, spouse, or domestic~~
19 ~~partner.~~ *party or spouse.*

20 (b) Unlawful detention of the property of any such person.

21 (c) Confinement of such person, lawful in form, but fraudulently
22 obtained, or fraudulently made unjustly harassing or oppressive.

23 SEC. 12. Section 3390 of the Civil Code is amended to read:

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

26 (a) An obligation to render personal service.

27 (b) An obligation to employ another in personal service.

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

30 (d) An agreement to procure the act or consent of the spouse ~~or~~
31 ~~domestic partner~~ of the contracting party, or of any other third
32 person.

33 (e) An agreement, the terms of which are not sufficiently certain
34 to make the precise act which is to be done clearly ascertainable.

35 SEC. 13. Section 17 of the Code of Civil Procedure is amended
36 to read:

37 17. (a) Words used in this code in the present tense include
38 the future as well as the present. Words used in the masculine
39 gender include the feminine and neuter. The singular number
40 includes the plural and the plural number includes the singular.

- 1 (b) As used in this code, the following words have the following
2 meanings, unless otherwise apparent from the context:
- 3 (1) “Affinity” signifies the connection existing in consequence
4 of marriage, between each of the married persons and the blood
5 relatives of the other when applied to the marriage relation.
- 6 (2) “County” includes “city and county.”
- 7 (3) “Electronic signature” means an electronic sound, symbol,
8 or process attached to or logically associated with an electronic
9 record and executed or adopted by a person with the intent to sign
10 the electronic record.
- 11 (4) “Month” means a calendar month, unless otherwise
12 expressed.
- 13 (5) “Oath” includes an affirmation or declaration.
- 14 (A) “Depose” includes any written statement made under oath
15 or affirmation.
- 16 (B) “Testify” includes any mode of oral statement made under
17 oath or affirmation.
- 18 (6) “Person” includes a corporation as well as a natural person.
- 19 (7) “Process” signifies a writ or summons issued in the course
20 of a judicial proceeding.
- 21 (8) “Property” includes both personal and real property.
- 22 (A) “Personal property” includes money, goods, chattels, things
23 in action, and evidences of debt.
- 24 (B) “Real property” is coextensive with lands, tenements, and
25 hereditaments.
- 26 (9) “Section” refers to a section of this code, unless some other
27 code or statute is expressly mentioned.
- 28 (10) “Sheriff” includes marshal.
- 29 (11) “Signature” or “subscription” includes a mark of a person’s
30 name, if the person cannot write, with his or her name being written
31 near it by a person who writes his or her own name as a witness.
32 In order that a mark may be acknowledged or serve as the signature
33 to any sworn statement, it shall be witnessed by two persons who
34 shall subscribe their own names as witnesses thereto.
- 35 (12) “Spouse” includes ~~domestic~~ “*registered domestic partner*,”
36 as described in ~~Section 297~~ *required by Section 297.5* of the Family
37 Code.
- 38 (13) “State” includes the District of Columbia and the territories
39 when applied to the different parts of the United States, and the
40 words “United States” may include the district and territories.

1 (14) “Will” includes codicil.

2 (15) “Writ” means an order or precept in writing, issued in the
3 name of the people, or of a court or judicial officer.

4 (16) “Writing” includes printing and typewriting.

5 SEC. 14. Section 116.540 of the Code of Civil Procedure is
6 amended to read:

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

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

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

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

25 (1) The claim can be proved or disputed by evidence of an
26 account that constitutes a business record as defined in Section
27 1271 of the Evidence Code, and there is no other issue of fact in
28 the case.

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

33 (e) A plaintiff is not required to personally appear, and may
34 submit declarations to serve as evidence supporting his or her claim
35 or allow another individual to appear and participate on his or her
36 behalf, if (1) the plaintiff is serving on active duty in the United
37 States Armed Forces outside this state, (2) the plaintiff was
38 assigned to his or her duty station after his or her claim arose, (3)
39 the assignment is for more than six months, (4) the representative
40 is serving without compensation, and (5) the representative has

1 appeared in small claims actions on behalf of others no more than
2 four times during the calendar year. The defendant may file a claim
3 in the same action in an amount not to exceed the jurisdictional
4 limits stated in Sections 116.220, 116.221, and 116.231.

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

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

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

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

35 (j) At the hearing of a small claims action, the court shall require
36 any individual who is appearing as a representative of a party under
37 subdivisions (b) to (i), inclusive, to file a declaration stating (1)
38 that the individual is authorized to appear for the party, and (2)
39 the basis for that authorization. If the representative is appearing
40 under subdivision (b), (c), (d), (h), or (i), the declaration also shall

1 state that the individual is not employed solely to represent the
2 party in small claims court. If the representative is appearing under
3 subdivision (e), (f), or (g), the declaration also shall state that the
4 representative is serving without compensation, and has appeared
5 in small claims actions on behalf of others no more than four times
6 during the calendar year.

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

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

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

19 SEC. 15. Section 371 of the Code of Civil Procedure is
20 amended to read:

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

25 SEC. 16. Section 703.140 of the Code of Civil Procedure is
26 amended to read:

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

35 (1) If spouses ~~or domestic partners~~ are joined in the petition,
36 they jointly may elect to utilize the applicable exemption provisions
37 of this chapter other than the provisions of subdivision (b), or to
38 utilize the applicable exemptions set forth in subdivision (b), but
39 not both.

1 (2) If the petition is filed individually, and not jointly, for a
2 ~~spouse or domestic partner~~, *spouse*, the exemptions provided by
3 this chapter other than the provisions of subdivision (b) are
4 applicable, except that, if both of the spouses ~~or domestic partners~~
5 effectively waive in writing the right to claim, during the period
6 the case commenced by filing the petition is pending, the
7 exemptions provided by the applicable exemption provisions of
8 this chapter, other than subdivision (b), in any case commenced
9 by filing a petition for either of them under Title 11 of the United
10 States Code, then they may elect to instead utilize the applicable
11 exemptions set forth in subdivision (b).

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

16 (b) The following exemptions may be elected as provided in
17 subdivision (a):

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

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

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

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

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

39 (6) The debtor's aggregate interest, not to exceed seven thousand
40 one hundred seventy-five dollars (\$7,175) in value, in any

1 implements, professional books, or tools of the trade of the debtor
2 or the trade of a dependent of the debtor.

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

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

10 (9) Professionally prescribed health aids for the debtor or a
11 dependent of the debtor.

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

13 (A) A social security benefit, unemployment compensation, or
14 a local public assistance benefit.

15 (B) A veterans' benefit.

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

17 (D) Alimony, support, or separate maintenance, to the extent
18 reasonably necessary for the support of the debtor and any
19 dependent of the debtor.

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

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

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

29 (iii) That plan or contract does not qualify under Section 401(a),
30 403(a), 403(b), 408, or 408A of the Internal Revenue Code of
31 1986.

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

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

35 (B) A payment on account of the wrongful death of an individual
36 of whom the debtor was a dependent, to the extent reasonably
37 necessary for the support of the debtor and any dependent of the
38 debtor.

39 (C) A payment under a life insurance contract that insured the
40 life of an individual of whom the debtor was a dependent on the

1 date of that individual's death, to the extent reasonably necessary
2 for the support of the debtor and any dependent of the debtor.

3 (D) A payment, not to exceed twenty-four thousand sixty dollars
4 (\$24,060), on account of personal bodily injury of the debtor or
5 an individual of whom the debtor is a dependent.

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

10 SEC. 17. Section 704.930 of the Code of Civil Procedure is
11 amended to read:

12 704.930. (a) A homestead declaration recorded pursuant to
13 this article shall contain all of the following:

14 (1) The name of the declared homestead owner. Spouses ~~or~~
15 ~~domestic partners~~ both may be named as declared homestead
16 owners in the same homestead declaration if each owns an interest
17 in the dwelling selected as the declared homestead.

18 (2) A description of the declared homestead.

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

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

28 (1) The declared homestead owner.

29 (2) The ~~spouse or domestic partner~~ of the declared homestead
30 owner.

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

35 (4) A person acting under a power of attorney or otherwise
36 authorized to act on behalf of a person listed in paragraph (1) or
37 (2).

38 (c) The homestead declaration shall include a statement that the
39 facts stated in the homestead declaration are known to be true as
40 of the personal knowledge of the person executing and

1 acknowledging the homestead declaration. If the homestead
2 declaration is executed and acknowledged by a person listed in
3 paragraph (3) or (4) of subdivision (b), it shall also contain a
4 statement that the person has authority to so act on behalf of the
5 declared homestead owner or the spouse ~~or domestic partner~~ of
6 the declared homestead owner and the source of the person's
7 authority.

8 SEC. 18. Section 1201 of the Commercial Code is amended
9 to read:

10 1201. (a) Unless the context otherwise requires, words or
11 phrases defined in this section, or in the additional definitions
12 contained in other divisions of this code that apply to particular
13 divisions or chapters thereof, have the meanings stated.

14 (b) Subject to definitions contained in other divisions of this
15 code that apply to particular divisions or chapters thereof:

16 (1) "Action," in the sense of a judicial proceeding, includes
17 recoupment, counterclaim, setoff, suit in equity, and any other
18 proceeding in which rights are determined.

19 (2) "Aggrieved party" means a party entitled to pursue a remedy.

20 (3) "Agreement," as distinguished from "contract," means the
21 bargain of the parties in fact, as found in their language or inferred
22 from other circumstances, including course of performance, course
23 of dealing, or usage of trade as provided in Section 1303.

24 (4) "Bank" means a person engaged in the business of banking,
25 and includes a savings bank, savings and loan association, credit
26 union, and trust company.

27 (5) "Bearer" means a person in possession of a negotiable
28 instrument, document of title, or certificated security that is payable
29 to bearer or endorsed in blank.

30 (6) "Bill of lading" means a document evidencing the receipt
31 of goods for shipment issued by a person engaged in the business
32 of transporting or forwarding goods.

33 (7) "Branch" includes a separately incorporated foreign branch
34 of a bank.

35 (8) "Burden of establishing" a fact means the burden of
36 persuading the trier of fact that the existence of the fact is more
37 probable than its nonexistence.

38 (9) "Buyer in ordinary course of business" means a person that
39 buys goods in good faith, without knowledge that the sale violates
40 the rights of another person in the goods, and in the ordinary course

1 from a person, other than a pawnbroker, in the business of selling
2 goods of that kind. A person buys goods in the ordinary course if
3 the sale to the person comports with the usual or customary
4 practices in the kind of business in which the seller is engaged or
5 with the seller's own usual or customary practices. A person that
6 sells oil, gas, or other minerals at the wellhead or minehead is a
7 person in the business of selling goods of that kind. A buyer in
8 ordinary course of business may buy for cash, by exchange of
9 other property, or on secured or unsecured credit, and may acquire
10 goods or documents of title under a preexisting contract for sale.
11 Only a buyer that takes possession of the goods or has a right to
12 recover the goods from the seller under Division 2 (commencing
13 with Section 2101) may be a buyer in ordinary course of business.
14 "Buyer in ordinary course of business" does not include a person
15 that acquires goods in a transfer in bulk or as security for or in
16 total or partial satisfaction of a money debt.

17 (10) "Conspicuous," with reference to a term, means so written,
18 displayed, or presented that a reasonable person against whom it
19 is to operate ought to have noticed it. Whether a term is
20 "conspicuous" or not is a decision for the court. Conspicuous terms
21 include *both of* the following:

22 (A) ~~a~~A heading in capitals equal to or greater in size than the
23 surrounding text, or in contrasting type, font, or color to the
24 surrounding text of the same or lesser ~~size~~, and ~~size~~.

25 (B) ~~language~~Language in the body of a record or display in
26 larger type than the surrounding text, or in contrasting type, font,
27 or color to the surrounding text of the same size, or set off from
28 surrounding text of the same size by symbols or other marks that
29 call attention to the language.

30 (11) [Reserved]

31 (12) "Contract," as distinguished from "agreement," means the
32 total legal obligation that results from the parties' agreement as
33 determined by this code and as supplemented by any other
34 applicable laws.

35 (13) "Creditor" includes a general creditor, a secured creditor,
36 a lien creditor, and any representative of creditors, including an
37 assignee for the benefit of creditors, a trustee in bankruptcy, a
38 receiver in equity, and an executor or administrator of an insolvent
39 debtor's or assignor's estate.

- 1 (14) “Defendant” includes a person in the position of defendant
2 in a counterclaim, cross-claim, or third-party claim.
- 3 (15) “Delivery,” with respect to an instrument, document of
4 title, or chattel paper means voluntary transfer of possession.
- 5 (16) “Document of title” includes a bill of lading, dock warrant,
6 dock receipt, warehouse receipt, or order for the delivery of goods,
7 and also any other document which in the regular course of
8 business or financing is treated as adequately evidencing that the
9 person in possession of it is entitled to receive, hold, and dispose
10 of the document and the goods it covers. To be a document of title,
11 a document must purport to be issued by or addressed to a bailee
12 and purport to cover goods in the bailee’s possession which are
13 either identified or are fungible portions of an identified mass.
- 14 (17) “Fault” means a default, breach, or wrongful act or
15 omission.
- 16 (18) “Fungible goods” means:
- 17 (A) Goods of which any unit, by nature or usage of trade, is the
18 equivalent of any other like unit; or
- 19 (B) Goods that by agreement are treated as equivalent.
- 20 (19) “Genuine” means free of forgery or counterfeiting.
- 21 (20) “Good faith,” except as otherwise provided in Division 5
22 (commencing with Section 5101), means honesty in fact and the
23 observance of reasonable commercial standards of fair dealing.
- 24 (21) “Holder,” means:
- 25 (A) the person in possession of a negotiable instrument that is
26 payable either to bearer or, to an identified person that is the person
27 in possession; or
- 28 (B) the person in possession of a document of title if the goods
29 are deliverable either to bearer or to the order of the person in
30 possession.
- 31 (22) “Insolvency proceeding” includes an assignment for the
32 benefit of creditors or other proceeding intended to liquidate or
33 rehabilitate the estate of the person involved.
- 34 (23) “Insolvent” means:
- 35 (A) having generally ceased to pay debts in the ordinary course
36 of business other than as a result of bona fide dispute;
- 37 (B) being unable to pay debts as they become due; or
- 38 (C) being insolvent within the meaning of federal bankruptcy
39 law.

1 (24) “Money” means a medium of exchange currently authorized
2 or adopted by a domestic or foreign government. The term includes
3 a monetary unit of account established by an intergovernmental
4 organization or by agreement between two or more countries.

5 (25) “Organization” means a person other than an individual.

6 (26) “Party,” as distinguished from “third party,” means a person
7 that has engaged in a transaction or made an agreement subject to
8 this code.

9 (27) “Person” means an individual, corporation, business trust,
10 estate, trust, partnership, limited liability company, association,
11 joint venture, government, governmental subdivision, agency, or
12 instrumentality, public corporation, or any other legal or
13 commercial entity.

14 (28) “Present value” means the amount as of a date certain of
15 one or more sums payable in the future, discounted to the date
16 certain by use of either an interest rate specified by the parties if
17 that rate is not manifestly unreasonable at the time the transaction
18 is entered into or, if an interest rate is not so specified, a
19 commercially reasonable rate that takes into account the facts and
20 circumstances at the time the transaction is entered into.

21 (29) “Purchase” means taking by sale, lease, discount,
22 negotiation, mortgage, pledge, lien, security interest, issue or
23 reissue, gift, or any other voluntary transaction creating an interest
24 in property.

25 (30) “Purchaser” means a person that takes by purchase.

26 (31) “Record” means information that is inscribed on a tangible
27 medium or that is stored in an electronic or other medium and is
28 retrievable in perceivable form.

29 (32) “Remedy” means any remedial right to which an aggrieved
30 party is entitled with or without resort to a tribunal.

31 (33) “Representative” means a person empowered to act for
32 another, including an agent, an officer of a corporation or
33 association, and a trustee, executor, or administrator of an estate.

34 (34) “Right” includes remedy.

35 (35) “Security interest” means an interest in personal property
36 or fixtures which secures payment or performance of an obligation.
37 “Security interest” includes any interest of a consignor and a buyer
38 of accounts, chattel paper, a payment intangible, or a promissory
39 note in a transaction that is subject to Division 9 (commencing
40 with Section 9101). “Security interest” does not include the special

1 property interest of a buyer of goods on identification of those
2 goods to a contract for sale under Section 2401, but a buyer may
3 also acquire a “security interest” by complying with Division 9
4 (commencing with Section 9101). Except as otherwise provided
5 in Section 2505, the right of a seller or lessor of goods under
6 Division 2 (commencing with Section 2101) or Division 10
7 (commencing with Section 10101) to retain or acquire possession
8 of the goods is not a “security interest,” but a seller or lessor may
9 also acquire a “security interest” by complying with Division 9
10 (commencing with Section 9101). The retention or reservation of
11 title by a seller of goods notwithstanding shipment or delivery to
12 the buyer under Section 2401 is limited in effect to a reservation
13 of a “security interest.”

14 Whether a transaction in the form of a lease creates a “security
15 interest” is determined pursuant to Section 1203.

16 (36) “Send,” in connection with a writing, record, or notice
17 means:

18 (A) to deposit in the mail or deliver for transmission by any
19 other usual means of communication with postage or cost of
20 transmission provided for and properly addressed and, in the case
21 of an instrument, to an address specified thereon or otherwise
22 agreed or, if there is none, to any address reasonable under the
23 circumstances; or

24 (B) in any other way to cause to be received any record or notice
25 within the time it would have arrived if properly sent.

26 (37) “Signed” includes using any symbol executed or adopted
27 with present intention to adopt or accept a writing.

28 (38) “Spouse” includes ~~domestic~~ “*registered domestic partner*,”
29 as described in Section 297 required by Section 297.5 of the Family
30 Code.

31 (39) “State” means a state of the United States, the District of
32 Columbia, Puerto Rico, the United States Virgin Islands, or any
33 territory or insular possession subject to the jurisdiction of the
34 United States.

35 (40) “Surety” includes a guarantor or other secondary obligor.

36 (41) “Term” means a portion of an agreement that relates to a
37 particular matter.

38 (42) “Unauthorized signature” means a signature made without
39 actual, implied, or apparent authority. The term includes a forgery.

1 (43) “Warehouse receipt” means a receipt issued by a person
2 engaged in the business of storing goods for hire.

3 (44) “Writing” includes printing, typewriting, or any other
4 intentional reduction to tangible form. “Written” has a
5 corresponding meaning.

6 SEC. 19. Section 12.2 is added to the Corporations Code, to
7 read:

8 12.2. “Spouse” includes ~~“domestic~~ “registered domestic
9 partner,” as ~~described in Section 297~~ required by Section 297.5 of
10 the Family Code.

11 SEC. 20. Section 158 of the Corporations Code is amended to
12 read:

13 158. (a) “Close corporation” means a corporation, including
14 a close social purpose corporation, whose articles contain, in
15 addition to the provisions required by Section 202, a provision that
16 all of the corporation’s issued shares of all classes shall be held of
17 record by not more than a specified number of persons, not
18 exceeding 35, and a ~~statement~~ *statement*, “This corporation is a
19 close corporation.”

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

24 (c) The special provisions referred to in subdivision (a) may be
25 deleted from the articles by amendment, or the number of
26 shareholders specified may be changed by amendment, but if such
27 amendment is adopted after the issuance of shares, only by the
28 affirmative vote of at least two-thirds of each class of the
29 outstanding shares; provided, however, that the articles may
30 provide for a lesser vote, but not less than a majority of the
31 outstanding shares, or may deny a vote to any class, or both.

32 (d) In determining the number of shareholders for the purposes
33 of the provision in the articles authorized by this section, spouses
34 and the personal representative of either ~~or domestic partners and~~
35 ~~the personal representative of either~~ shall be counted as one
36 regardless of how shares may be held by either or both of them, a
37 trust or personal representative of a decedent holding shares shall
38 be counted as one regardless of the number of trustees or
39 beneficiaries, and a partnership or corporation or business
40 association holding shares shall be counted as one (except that any

1 such trust or entity the primary purpose of which was the
2 acquisition or voting of the shares shall be counted according to
3 the number of beneficial interests therein).

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

21 (f) Nothing contained in this section shall invalidate any
22 agreement among the shareholders to vote for the deletion from
23 the articles of the special provisions referred to in subdivision (a)
24 upon the lapse of a specified period of time or upon the occurrence
25 of a certain event or condition or otherwise.

26 (g) The following sections contain specific references to close
27 corporations: Sections 186, 202, 204, 300, 418, 421, 1111, 1201,
28 1800, and 1904.

29 SEC. 21. Section 704 of the Corporations Code is amended to
30 read:

31 704. (a) If shares stand of record in the names of two or more
32 persons, whether fiduciaries, members of a partnership, joint
33 tenants, tenants in common, spouses ~~or domestic partners~~ as
34 community property, tenants by the entirety, voting trustees,
35 persons entitled to vote under a shareholder voting agreement or
36 otherwise, or if two or more persons (including proxyholders) have
37 the same fiduciary relationship respecting the same shares, unless
38 the secretary of the corporation is given written notice to the
39 contrary and is furnished with a copy of the instrument or order
40 appointing them or creating the relationship wherein it is so

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

3 —(1) If only one votes, such act binds ~~all~~; *all*.

4 —(2) If more than one vote, the act of the majority so voting
5 binds ~~all~~; *all*.

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

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11 *(b)* If the instrument so filed or the registration of the shares shows
12 that any such tenancy is held in unequal interests, a majority or
13 even split for the purpose of this section shall be a majority or even
14 split in interest.

15 SEC. 22. Section 5612 of the Corporations Code is amended
16 to read:

17 5612. If a membership stands of record in the names of two or
18 more persons, whether fiduciaries, members of a partnership, joint
19 tenants, tenants in common, spouses ~~or domestic partners~~ as
20 community property, tenants by the entirety, or otherwise, or if
21 two or more persons (including proxyholders) have the same
22 fiduciary relationship respecting the same membership, unless the
23 secretary of the corporation is given written notice to the contrary
24 and is furnished with a copy of the instrument or order appointing
25 them or creating the relationship wherein it is so provided, their
26 acts with respect to voting shall have the following effect:

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

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

30 SEC. 23. Section 7612 of the Corporations Code is amended
31 to read:

32 7612. If a membership stands of record in the names of two or
33 more persons, whether fiduciaries, members of a partnership, joint
34 tenants, tenants in common, spouses ~~or domestic partners~~ as
35 community property, tenants by the entirety, persons entitled to
36 vote under a voting agreement or otherwise, or if two or more
37 persons (including proxyholders) have the same fiduciary
38 relationship respecting the same membership, unless the secretary
39 of the corporation is given written notice to the contrary and is
40 furnished with a copy of the instrument or order appointing them

1 or creating the relationship wherein it is so provided, their acts
2 with respect to voting shall have the following effect:

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

6 SEC. 24. Section 12482 of the Corporations Code is amended
7 to read:

8 12482. Unless otherwise provided in the articles or bylaws, if
9 a membership stands of record in the names of two or more
10 persons, whether fiduciaries, members of a partnership, joint
11 tenants, tenants in common, spouses ~~or domestic partners~~ as
12 community property, tenants by the entirety, persons entitled to
13 vote under a voting agreement or otherwise, or if two or more
14 persons have the same fiduciary relationship respecting the same
15 membership, unless the secretary of the corporation is given written
16 notice to the contrary and is furnished with a copy of the instrument
17 or order appointing them or creating the relationship wherein it is
18 so provided, their acts with respect to voting shall have the
19 following effect:

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

23 SEC. 25. Section 25102 of the Corporations Code is amended
24 to read:

25 25102. The following transactions are exempted from the
26 provisions of Section 25110:

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

1 securities is qualified under this law unless the sale of securities
2 is exempt from the qualification by this section, Section 25100,
3 or 25105.

4 (b) Any offer (but not a sale) of a security for which a
5 registration statement has been filed under the Securities Act of
6 1933 but has not yet become effective, or for which an offering
7 statement under Regulation A has been filed but has not yet been
8 qualified, if no stop order or refusal order is in effect and no public
9 proceeding or examination looking towards an order is pending
10 under Section 8 of the act and no order under Section 25140 or
11 subdivision (a) of Section 25143 is in effect under this law.

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

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

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

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

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

31 (2) All purchasers either have a preexisting personal or business
32 relationship with the offeror or any of its partners, officers,
33 directors or controlling persons, or managers (as appointed or
34 elected by the members) if the offeror is a limited liability
35 company, or by reason of their business or financial experience or
36 the business or financial experience of their professional advisers
37 who are unaffiliated with and who are not compensated by the
38 issuer or any affiliate or selling agent of the issuer, directly or
39 indirectly, could be reasonably assumed to have the capacity to
40 protect their own interests in connection with the transaction.

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

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

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

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

37 (h) Any offer or sale of voting common stock by a corporation
38 incorporated in any state if, immediately after the proposed sale
39 and issuance, there will be only one class of stock of the
40 corporation outstanding that is owned beneficially by no more than

1 35 persons, provided all of the following requirements have been
2 met:

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

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

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

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

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

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

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

32 (4) A notice in a form prescribed by rule of the commissioner,
33 signed by an active member of the State Bar of California, is filed
34 with or mailed for filing to the commissioner not later than 10
35 business days after receipt of consideration for the securities by
36 the issuer. That notice shall contain an opinion of the member of
37 the State Bar of California that the exemption provided by this
38 subdivision is available for the offer and sale of the securities. The
39 failure to file the notice as required by this subdivision and the
40 rules of the commissioner shall not affect the availability of this

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

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

33 For the purposes of this subdivision, all securities held by ~~spouses~~
34 ~~or domestic partners~~, *spouses*, whether or not jointly, shall be
35 considered to be owned by one person, and all securities held by
36 a corporation that has issued stock pursuant to this exemption shall
37 be considered to be held by the shareholders to whom it has issued
38 the stock.

39 All stock issued by a corporation pursuant to this subdivision as
40 it existed prior to the effective date of the amendments to this

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

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

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

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

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

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

37 (C) Have been found by the commissioner upon written
38 application to be substantially engaged in the business of drilling
39 for, producing, or refining oil or gas so as not to require the

1 protection provided by this law (which finding shall be effective
2 until rescinded).

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

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

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

17 (m) Any offer or sale of a stock to a pension, profit-sharing,
18 stock bonus, or employee stock ownership plan, provided that (1)
19 the plan meets the requirements for qualification under Section
20 401 of the Internal Revenue Code, and (2) the employees are not
21 required or permitted individually to make any contributions to
22 the plan. The exemption provided by this subdivision shall not be
23 affected by whether the stock is contributed to the plan, purchased
24 from the issuer with contributions by the issuer or an affiliate of
25 the issuer, or purchased from the issuer with funds borrowed from
26 the issuer, an affiliate of the issuer, or any other lender.

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

30 (1) The issuer is (A) a California corporation or foreign
31 corporation that, at the time of the filing of the notice required
32 under this subdivision, is subject to Section 2115, or (B) any other
33 form of business entity, including without limitation a partnership
34 or trust organized under the laws of this state. The exemption
35 provided by this subdivision is not available to a “blind pool”
36 issuer, as that term is defined by the commissioner, or to an
37 investment company subject to the Investment Company Act of
38 1940.

39 (2) Sales of securities are made only to qualified purchasers or
40 other persons the issuer reasonably believes, after reasonable

1 inquiry, to be qualified purchasers. A corporation, partnership, or
2 other organization specifically formed for the purpose of acquiring
3 the securities offered by the issuer in reliance upon this exemption
4 may be a qualified purchaser if each of the equity owners of the
5 corporation, partnership, or other organization is a qualified
6 purchaser. Qualified purchasers include the following:

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

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

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

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

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

37 Each natural person specified above, by reason of his or her
38 business or financial experience, or the business or financial
39 experience of his or her professional adviser, who is unaffiliated
40 with and who is not compensated, directly or indirectly, by the

1 issuer or any affiliate or selling agent of the issuer, can be
2 reasonably assumed to have the capacity to protect his or her
3 interests in connection with the transaction. The amount of the
4 investment of each natural person shall not exceed 10 percent of
5 the net worth, as determined by this subparagraph, of that natural
6 person.

7 (F) Any other purchaser designated as qualified by rule of the
8 commissioner.

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

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

33 (5) (A) A general announcement of proposed offering may be
34 published by written document only, provided that the general
35 announcement of proposed offering sets forth the following
36 required information:

37 (i) The name of the issuer of the securities.

38 (ii) The full title of the security to be issued.

39 (iii) The anticipated suitability standards for prospective
40 purchasers.

1 (iv) A statement that (I) no money or other consideration is
2 being solicited or will be accepted, (II) an indication of interest
3 made by a prospective purchaser involves no obligation or
4 commitment of any kind, and, if the issuer is required by paragraph
5 (4) to deliver a disclosure statement to prospective purchasers,
6 (III) no sales will be made or commitment to purchase accepted
7 until five business days after delivery of a disclosure statement
8 and subscription information to the prospective purchaser in
9 accordance with the requirements of this subdivision.

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

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

15 (B) The general announcement of proposed offering referred
16 to in subparagraph (A) may also set forth the following
17 information:

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

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

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

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

25 (D) Dissemination of the general announcement of proposed
26 offering to persons who are not qualified purchasers, without more,
27 shall not disqualify the issuer from claiming the exemption under
28 this subdivision.

29 (6) No telephone solicitation shall be permitted until the issuer
30 has determined that the prospective purchaser to be solicited is a
31 qualified purchaser.

32 (7) The issuer files a notice of transaction under this subdivision
33 both (A) concurrent with the publication of a general announcement
34 of proposed offering or at the time of the initial offer of the
35 securities, whichever occurs first, accompanied by a filing fee, and
36 (B) within 10 business days following the close or abandonment
37 of the offering, but in no case more than 210 days from the date
38 of filing the first notice. The first notice of transaction under
39 subparagraph (A) shall contain an undertaking, in a form acceptable
40 to the commissioner, to deliver any disclosure statement required

1 by paragraph (4) to be delivered to prospective purchasers, and
2 any supplement thereto, to the commissioner within 10 days of
3 the commissioner's request for the information. The exemption
4 from qualification afforded by this subdivision is unavailable if
5 an issuer fails to file the first notice required under subparagraph
6 (A) or to pay the filing fee. The commissioner has the authority
7 to assess an administrative penalty of up to one thousand dollars
8 (\$1,000) against an issuer that fails to deliver the disclosure
9 statement required to be delivered to the commissioner upon the
10 commissioner's request within the time period set forth above.
11 Neither the filing of the disclosure statement nor the failure by the
12 commissioner to comment thereon precludes the commissioner
13 from taking any action deemed necessary or appropriate under this
14 division with respect to the offer and sale of the securities.

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

39 Offers and sales exempt pursuant to this subdivision shall be
40 deemed to be part of a single, discrete offering and are not subject

1 to integration with any other offering or sale, whether qualified
2 under Chapter 2 (commencing with Section 25110), or otherwise
3 exempt, or not subject to qualification.

4 (p) An offer or sale of nonredeemable securities to accredited
5 investors (Section 28031) by a person licensed under the Capital
6 Access Company Law (Division 3 (commencing with Section
7 28000) of Title 4), provided that all purchasers either (1) have a
8 preexisting personal or business relationship with the offeror or
9 any of its partners, officers, directors, controlling persons, or
10 managers (as appointed or elected by the members), or (2) by
11 reason of their business or financial experience or the business or
12 financial experience of their professional advisers who are
13 unaffiliated with and who are not compensated by the issuer or
14 any affiliate or selling agent of the issuer, directly or indirectly,
15 could be reasonably assumed to have the capacity to protect their
16 own interests in connection with the transaction. All nonredeemable
17 securities shall be evidenced by certificates that shall have stamped
18 or printed prominently on their face a legend in a form to be
19 prescribed by rule or order of the commissioner restricting transfer
20 of the securities in the manner as the rule or order provides. The
21 exemption under this subdivision shall not be available for any
22 offering that is exempt or asserted to be exempt pursuant to Section
23 3(a)(11) of the Securities Act of 1933 (15 U.S.C. Sec. 77c(a)(11))
24 or Rule 147 (17 C.F.R. 230.147) thereunder or otherwise is
25 conducted by means of any form of general solicitation or general
26 advertising.

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

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

39 (A) A person designated in Section 260.102.13 of Title 10 of
40 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) A natural person who, either individually or jointly with the
14 person's ~~spouse or domestic partner~~, *spouse*, (i) has a minimum
15 net worth of one hundred fifty thousand dollars (\$150,000) and
16 had, during the immediately preceding tax year, gross income in
17 excess of one hundred thousand dollars (\$100,000) and reasonably
18 expects gross income in excess of one hundred thousand dollars
19 (\$100,000) during the current tax year or (ii) has a minimum net
20 worth of two hundred fifty thousand dollars (\$250,000). "Net
21 worth" shall be determined exclusive of home, home furnishings,
22 and automobiles. Other assets included in the computation of net
23 worth may be valued at fair market value.

24 Each natural person specified above, by reason of his or her
25 business or financial experience, or the business or financial
26 experience of his or her professional adviser, who is unaffiliated
27 with and who is not compensated, directly or indirectly, by the
28 issuer or any affiliate or selling agent of the issuer, can be
29 reasonably assumed to have the capacity to protect his or her
30 interests in connection with the transaction.

31 The amount of the investment of each natural person shall not
32 exceed 10 percent of the net worth, as determined by this
33 subdivision, of that natural person.

34 (F) Any other purchaser designated as qualified by rule of the
35 commissioner.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (O) The insurance policy premiums and terms of premium
35 payments.

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

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

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

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

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

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

24 SEC. 26. Section 25206 of the Corporations Code is amended
25 to read:

26 25206. A broker licensed by the Real Estate Commissioner is
27 exempt from the provisions of Section 25210 when engaged in
28 transactions in any interest in any general or limited partnership,
29 joint venture, unincorporated association, or similar organization
30 (but not a corporation) owned beneficially by no more than 100
31 persons and formed for the sole purpose of, and engaged solely
32 in, investment in or gain from an interest in real property, including,
33 but not limited to, a sale, exchange, trade, or development. An
34 interest held by spouses ~~or domestic partners~~ shall be considered
35 held by one person for the purposes of this section.

36 SEC. 27. Section 73.2 is added to the Education Code, to read:

37 73.2. "Spouse" includes ~~domestic~~ "registered domestic
38 partner," as described in Section ~~297~~ required by Section 297.5 of
39 the Family Code.

1 SEC. 28. Section 21100 of the Education Code is amended to
2 read:

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

14 SEC. 29. Section 24803 of the Education Code is amended to
15 read:

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

27 ~~(1) Spouse or domestic partner.~~

28 (1) *Spouse.*

29 (2) Children and issue of deceased children by right of
30 representation.

31 (3) Father and mother.

32 (4) Brothers and sisters.

33 (5) Nieces and nephews.

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

39 SEC. 30. Section 68062 of the Education Code is amended to
40 read:

1 68062. In determining the place of residence the following
2 rules are to be observed:

3 (a) There can only be one residence.

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

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

8 (d) The residence can be changed only by the union of act and
9 intent.

10 (e) A man or woman may establish his or her residence. A
11 person's residence shall not be derivative from that of his or her
12 ~~spouse or domestic partner.~~ *spouse*.

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

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

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

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

30 SEC. 31. Section 356.5 is added to the Elections Code, to read:

31 356.5. "Spouse" includes ~~domestic~~ "registered domestic
32 partner," as described in Section 297 required by Section 297.5 of
33 the Family Code.

34 SEC. 32. Section 215 is added to the Evidence Code, to read:

35 215. "Spouse" includes ~~domestic~~ "registered domestic
36 partner," as described in Section 297 required by Section 297.5 of
37 the Family Code.

38 SEC. 33. Section 917 of the Evidence Code is amended to read:

39 917. (a) If a privilege is claimed on the ground that the matter
40 sought to be disclosed is a communication made in confidence in

1 the course of the lawyer-client, lawyer referral service-client,
2 physician-patient, psychotherapist-patient, clergy-penitent, marital
3 or domestic partnership, sexual assault counselor-victim, domestic
4 violence counselor-victim, or human trafficking caseworker-victim
5 relationship, the communication is presumed to have been made
6 in confidence and the opponent of the claim of privilege has the
7 burden of proof to establish that the communication was not
8 confidential.

9 (b) A communication between persons in a relationship listed
10 in subdivision (a) does not lose its privileged character for the sole
11 reason that it is communicated by electronic means or because
12 persons involved in the delivery, facilitation, or storage of
13 electronic communication may have access to the content of the
14 communication.

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

17 SEC. 34. Section 980 of the Evidence Code is amended to read:

18 980. Subject to Section 912 and except as otherwise provided
19 in this article, a spouse ~~or domestic partner~~ (or his or her guardian
20 or conservator when he or she has a guardian or conservator),
21 whether or not a party, has a privilege during the marital or
22 domestic partnership relationship and afterwards to refuse to
23 disclose, and to prevent another from disclosing, a communication
24 if he or she claims the privilege and the communication was made
25 in confidence between him or her and the other spouse ~~or domestic~~
26 ~~partner~~ while they were spouses ~~or domestic partners~~: *spouses*.

27 SEC. 35. Section 143 is added to the Family Code, to read:

28 143. “Spouse” includes ~~“domestic~~ “*registered domestic*
29 ~~partner,” as described in Section 297. required by Section 297.5.~~

30 SEC. 36. Section 11.2 is added to the Financial Code, to read:

31 11.2. “Spouse” includes ~~“domestic~~ “*registered domestic*
32 ~~partner,” as described in Section 297 required by Section 297.5 of~~
33 the Family Code.

34 SEC. 37. Section 14860 of the Financial Code is amended to
35 read:

36 14860. Except as provided in this section and Part 2
37 (commencing with Section 5100) of Division 5 of the Probate
38 Code, no credit union shall exercise trust powers except upon
39 qualifying as a trust company pursuant to Division 1 (commencing
40 with Section 99).

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

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

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

31 (1) When shares are issued in a revocable trust, the settlor shall
32 be a member of the credit union issuing the shares in his or her
33 own right. If the trust has joint settlors, who are ~~spouses or~~
34 ~~domestic partners,~~ *spouses*, then only one settlor need be a member
35 of the credit union.

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

1 irrevocable trust unless otherwise indicated in rules and regulations
2 issued by the commissioner.

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

5 SEC. 38. Section 18220 of the Financial Code is amended to
6 read:

7 18220. An industrial loan company shall not induce any ~~spouses~~
8 ~~or domestic partners~~, *spouses*, jointly or severally, to become
9 obligated, directly or contingently or both, under more than one
10 contract of loan at the same time, with the result of obtaining a
11 higher rate of charge than would otherwise be permitted by this
12 division.

13 SEC. 39. Section 18523 of the Financial Code is amended to
14 read:

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

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

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

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

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

39 (b) Testamentary investment certificates.

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

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

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

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

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

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

6 (f) Joint investment certificates.

7 (1) Investment certificates owned jointly, whether as joint
8 tenants with right of survivorship, as tenants by the entireties, as
9 tenants in common, or by spouses ~~or domestic partners~~ as
10 community property, shall be guaranteed separately from
11 investment certificates individually owned by the coowners.

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

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

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

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

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

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

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

5 SEC. 40. Section 22327 of the Financial Code is amended to
6 read:

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

20 SEC. 41. Section 9.2 is added to the Fish and Game Code, to
21 read:

22 9.2. “Spouse” includes—~~domestic~~ “*registered domestic*
23 *partner*,” ~~as described in Section 297 required by Section 297.5 of~~
24 ~~the Family Code.~~

25 SEC. 42. Section 8552.3 of the Fish and Game Code is
26 amended to read:

27 8552.3. The commission may, in consultation with
28 representatives of the commercial herring roe fishery, and after
29 holding at least one public hearing, adopt regulations intended to
30 facilitate the transfer of herring permits, including, but not limited
31 to, regulations that would do the following:

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

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

36 (c) Allow a herring permit to be passed from a parent to child,
37 or between ~~spouses or domestic partners~~. *spouses*.

38 SEC. 43. Section 36 is added to the Food and Agricultural
39 Code, to read:

1 36. “Spouse” includes ~~“domestic~~ “*registered domestic partner*,”
2 as ~~described in Section 297~~ *required by Section 297.5* of the Family
3 Code.

4 SEC. 44. Section 12.2 is added to the Government Code, to
5 read:

6 12.2. “Spouse” includes ~~“domestic~~ “*registered domestic*
7 *partner*,” as ~~described in Section 297~~ *required by Section 297.5* of
8 the Family Code.

9 SEC. 45. Section 9359.9 of the Government Code is amended
10 to read:

11 9359.9. (a) If a beneficiary is not designated, or if the estate
12 is the beneficiary and the estate would not be probated if no amount
13 were due from this system, all of the amount due by reason of the
14 death of a member or retired member, including retirement
15 allowances accrued but not received prior to death, shall be paid
16 directly without probate to the surviving next of kin of the
17 deceased, or the guardians of such survivors’ estates, share and
18 share alike.

19 (b) Such payment shall be made in the same order in which the
20 following groups are listed:

21 ~~(1) Spouse or domestic partner.~~

22 (1) *Spouse*.

23 (2) Children.

24 (3) Father and mother.

25 (4) Grandchildren.

26 (5) Brothers and sisters.

27 (6) Nieces and nephews.

28 SEC. 46. Section 9374 of the Government Code is amended
29 to read:

30 9374. Upon the death of a member before retirement (a) the
31 surviving spouse ~~or surviving domestic partner~~ of the member,
32 who has the care of children, including stepchildren, of the member
33 who are not married or in registered domestic partnerships and are
34 under 18 years of age, or are incapacitated because of disability
35 which began before and has continued without interruption after
36 attainment of that age, or if there is no such ~~spouse or domestic~~
37 ~~partner~~, *spouse*, then (b) the guardian of surviving children,
38 including stepchildren, of the member who are not married or in
39 registered domestic partnerships and are under 18 years of age or
40 so incapacitated, if any, or (c) the surviving spouse ~~or surviving~~

1 ~~domestic partner~~ of the member, who does not qualify under (a),
2 if any, or if no such children under (b) or such spouse ~~or domestic~~
3 ~~partner~~ under (c), then (d) each surviving parent of the member,
4 shall be paid the following applicable survivor allowance, under
5 the conditions stated and from contributions of the state:

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

23 (2) If there is no such surviving spouse ~~or surviving domestic~~
24 ~~partner~~, *spouse*, or if such surviving spouse ~~or surviving domestic~~
25 ~~partner~~ dies, remarries, or enters into a subsequent registered
26 domestic partnership, and if there are children, including
27 stepchildren, of the deceased member who are not married or in
28 registered domestic partnerships and are under 18 years of age, or
29 if there are such children not in the care of such spouse ~~or domestic~~
30 ~~partner~~, *spouse*, such children shall be paid an allowance as
31 follows:

32 (A) If there is only one such child, such child shall be paid one
33 hundred eighty dollars (\$180) per month.

34 (B) If there are two such children, such children shall be paid
35 three hundred sixty dollars (\$360) per month divided equally
36 between them.

37 (C) If there are three or more such children, such children shall
38 be paid four hundred thirty dollars (\$430) per month divided
39 equally among them.

1 (3) A surviving spouse ~~or surviving domestic partner~~ who has
2 attained or attains the age of 62 years, and, regardless of the gender
3 of the surviving spouse ~~or surviving domestic partner~~, *spouse*, who
4 was married to, or in a registered domestic partnership with, such
5 member prior to the occurrence of the injury or onset of the illness
6 that resulted in death, and has not remarried or entered into a
7 registered domestic partnership subsequent to the member's death,
8 shall be paid one hundred eighty dollars (\$180) per month. No
9 allowance shall be paid under this paragraph, while the surviving
10 spouse ~~or surviving domestic partner~~ is receiving an allowance
11 under paragraph (1), or while an allowance is being paid under
12 subparagraph (C) of paragraph (2). The allowance paid under this
13 paragraph shall be seventy dollars (\$70) per month while an
14 allowance is being paid under subparagraph (B) of paragraph (2).

15 (4) If there is no surviving spouse ~~or surviving domestic partner~~,
16 *spouse*, or surviving children who qualify for a survivor allowance,
17 or if such surviving spouse ~~or surviving domestic partner~~ dies,
18 remarries, or enters into a subsequent registered domestic
19 partnership, or if such children reach 18 years of age or die, marry,
20 or enter into a registered domestic partnership prior thereto, each
21 of the member's dependent mother and father who has attained or
22 attains 62 years of age, and who received at least one-half of his
23 or her support from the member at the time of the member's death,
24 shall be paid one hundred eighty dollars (\$180) per month.

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

28 SEC. 47. Section 21571 of the Government Code is amended
29 to read:

30 21571. (a) If the death benefit provided by Section 21532 is
31 payable on account of a member's death that occurs under
32 circumstances other than those described in subparagraph (F) of
33 paragraph ~~4~~ (1) of subdivision (a) of Section 21530, or if an
34 allowance under Section 21546 is payable, the payment pursuant
35 to subdivision (b) shall be made, in the following order of priority:

36 (1) The surviving spouse ~~or surviving domestic partner~~ of the
37 member, who has the care of children, including stepchildren, of
38 the member who are not married or in registered domestic
39 partnerships and are under 22 years of age, or are incapacitated

1 because of disability that began before and has continued without
2 interruption after attainment of that age.

3 (2) The guardian or conservator of surviving children, including
4 stepchildren, of the member who are not married or in registered
5 domestic partnerships and are under 22 years of age or are so
6 incapacitated.

7 (3) The surviving spouse ~~or surviving domestic partner~~ of the
8 member, who does not qualify under paragraph (1).

9 (4) Each surviving parent of the member.

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

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

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

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

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

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

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

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

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

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

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

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

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

20 SEC. 48. Section 21572 of the Government Code is amended
21 to read:

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

29 (1) The surviving spouse ~~or surviving domestic partner~~ of the
30 member who has the care of children, including stepchildren, of
31 the member who are not married or in registered domestic
32 partnerships and are under 22 years of age or are incapacitated
33 because of a disability that began before and has continued without
34 interruption after attainment of that age.

35 (2) The guardian of surviving children, including stepchildren,
36 of the member who are not married or in registered domestic
37 partnerships and are under 22 years of age or are so incapacitated.

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

25 (2) If there is no surviving ~~spouse or surviving domestic partner~~,
26 *spouse*, or if the surviving spouse ~~or surviving domestic partner~~
27 dies, and if there are children, including stepchildren, of the
28 deceased member who are not married or in registered domestic
29 partnerships and are under 22 years of age or are so incapacitated,
30 or if there are children not in the care of the ~~spouse or domestic~~
31 ~~partner~~, *spouse*, the children shall be paid an allowance as follows:

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

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

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

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

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

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

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

33 (e) This section shall apply, with respect to benefits payable on
34 and after July 1, 1981, to all members employed by a school
35 employer, and school safety members employed with a school
36 district or community college district as defined in subdivision (i)
37 of Section 20057, except that it shall not apply, without contract
38 amendment, with respect to safety members who became members
39 after July 1, 1981. All assets and liabilities of all school employers,
40 and their employees, on account of benefits provided under this

1 article shall be pooled into a single account, and a single employer
2 rate shall be established to provide benefits under this section on
3 account of all miscellaneous members employed by a school
4 employer and all safety members who are members on July 1,
5 1981.

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

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

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

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

28 SEC. 49. Section 21573 of the Government Code is amended
29 to read:

30 21573. (a) In lieu of benefits provided in Section 21571 or
31 Section 21572, if the death benefit provided by Section 21532 is
32 payable on account of a state member's death that occurs under
33 circumstances other than those described in subparagraph (F) of
34 paragraph (1) of subdivision (a) of Section 21530, or if an
35 allowance under Section 21546 is payable, the payment pursuant
36 to subdivision (b) shall be made in the following order of priority:

37 (1) The surviving spouse ~~or surviving domestic partner~~ of the
38 member who has the care of children, including stepchildren, of
39 the member who are not married or in registered domestic
40 partnerships and are under 22 years of age or are incapacitated

1 because of a disability that began before and has continued without
2 interruption after attainment of that age.

3 (2) The guardian of surviving children, including stepchildren,
4 of the member who are not married or in registered domestic
5 partnerships and are under 22 years of age or are so incapacitated.

6 (3) The surviving spouse ~~or surviving domestic partner~~ of the
7 member who does not qualify under paragraph (1).

8 (4) Each surviving parent of the member.

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

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

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

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

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

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

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

23 (4) If there is no surviving ~~spouse, surviving domestic partner,~~
24 *spouse* or surviving child who qualifies for the 1959 survivor
25 allowance, or if the surviving spouse ~~or surviving domestic partner~~
26 dies and there is no surviving child, or if the surviving spouse ~~or~~
27 ~~surviving domestic partner~~ dies and the children die, marry, or
28 enter into a registered domestic partnership or, if not incapacitated,
29 reach 22 years of age, each of the member's dependent parents
30 who has attained or attains 62 years of age, and who received at
31 least one-half of his or her support from the member at the time
32 of the member's death, shall be paid three hundred fifty dollars
33 (\$350) per month.

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

38 (d) This section shall apply to beneficiaries of state members
39 whose death occurred before January 1, 1985. Where a surviving
40 spouse ~~or surviving domestic partner~~ attained 62 years of age prior

1 to January 1, 1987, entitlement shall exist retroactive to January
2 1, 1985, or to his or her 62nd birthday, whichever is later. All
3 assets and liabilities of all state agencies and their employees on
4 account of benefits provided to beneficiaries specified in this
5 subdivision shall be pooled into a single account. The board shall
6 transfer from the reserve for 1959 survivor contributions retained
7 in the retirement fund an amount sufficient to pay the cost of the
8 increased benefits provided by this subdivision for beneficiaries
9 of members who died on or before December 31, 1984.

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

22 (f) This section shall apply, with respect to benefits payable on
23 and after January 1, 1985, to school members and to school safety
24 members, as defined in Section 20444. All assets and liabilities of
25 all school employers, and their employees, on account of benefits
26 provided under this article shall be pooled into a single account,
27 and a single employer rate shall be established to provide benefits
28 under this section on account of school members employed by a
29 school employer.

30 (g) This section shall apply to members of a contracting agency
31 that, in its original contract or by amending its contract, first elects
32 effective on or after January 1, 1985, and prior to July 1, 2001, to
33 make this article applicable to local members employed by the
34 agency. On or after January 1, 1985, and prior to July 1, 2001,
35 contracting agencies already subject to Section 21571 or Section
36 21572 may elect by contract amendment to be subject to this
37 section. All assets and liabilities of all contracting agencies subject
38 to this section, and their employees, on account of benefits provided
39 under this article shall be pooled into a single account, and a single
40 employer rate shall be established to provide benefits under this

1 section on account of members employed by a contracting agency
2 that is subject to this section. Any public agency first contracting
3 with the board on or after January 1, 1994, and prior to July 1,
4 2001, or any contracting agency amending its contract to remove
5 exclusions of member classifications on or after January 1, 1994,
6 and prior to July 1, 2001, that has not, pursuant to Section 418 of
7 Title 42 of the United States Code, entered into an agreement with
8 the federal government for the coverage of its employees under
9 the federal system, shall be subject to this section.

10 (h) The rate of contribution of an employer subject to this section
11 shall be figured using the term insurance valuation method. If a
12 contracting agency that is subject to this section has a surplus in
13 its 1959 survivor benefit account as of the date the contracting
14 agency becomes subject to this section, the surplus shall be applied
15 to reduce its rate of contribution. If a contracting agency that is
16 subject to this section has a deficit in its 1959 survivor benefit
17 account as of the date the contracting agency becomes subject to
18 this section, its rate of contribution shall be increased until the
19 deficit is paid.

20 (i) This section shall not apply to beneficiaries with respect to
21 the death of a state member employed by the California State
22 University occurring on or after January 1, 1988, unless provided
23 for in a memorandum of understanding reached pursuant to Chapter
24 12 (commencing with Section 3560) of Division 4 of Title 1, or
25 authorized by the Trustees of the California State University for
26 employees excluded from collective bargaining. The memorandum
27 of understanding shall be controlling without further legislative
28 action, except that if the provisions of a memorandum of
29 understanding require the expenditure of funds, the provisions
30 shall not become effective unless approved by the Legislature in
31 the annual Budget Act.

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

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

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

1 SEC. 50. Section 12.2 is added to the Harbors and Navigation
2 Code, to read:

3 12.2. “Spouse” includes—~~domestic~~ “*registered domestic*
4 *partner,*” as ~~described in Section 297~~ *required by Section 297.5* of
5 the Family Code.

6 SEC. 51. Section 12.2 is added to the Health and Safety Code,
7 to read:

8 12.2. “Spouse” includes—~~domestic~~ “*registered domestic*
9 *partner,*” as ~~described in Section 297~~ *required by Section 297.5* of
10 the Family Code.

11 SEC. 52. Section 1373.5 of the Health and Safety Code is
12 amended to read:

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

24 This section shall apply to every group plan entered into,
25 delivered, amended, or renewed in this state on or after January
26 1, 1978.

27 SEC. 53. Section 18080 of the Health and Safety Code is
28 amended to read:

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

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

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

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

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

31 SEC. 54. Section 25299.54 of the Health and Safety Code is
32 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 10 (i) Familial relationship.
- 11 (ii) Fiduciary relationship.
- 12 (iii) A relationship of direct or indirect control or shared
13 interests.

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

- 16 (i) Parent corporation and subsidiary.
- 17 (ii) Subsidiaries that are owned by the same parent corporation.
- 18 (iii) Business entities involved in a reorganization, as defined
19 in Section 181 of the Corporations Code.
- 20 (iv) Corporate officer and corporation.
- 21 (v) Shareholder that owns a controlling block of voting stock
22 and the corporation.
- 23 (vi) Partner and the partnership.
- 24 (vii) Member and a limited liability company.
- 25 (viii) Franchiser and franchisee.
- 26 (ix) Settlor, trustee, and beneficiary of a trust.
- 27 (x) Debtor and bankruptcy trustee or debtor-in-possession.
- 28 (xi) Principal and agent.

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

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

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

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

7 SEC. 55. Section 32501 of the Health and Safety Code is
 8 amended to read:

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

18 SEC. 56. Section 12.2 is added to the Insurance Code, to read:

19 12.2. “Spouse” includes ~~“domestic~~ “*registered domestic*
 20 partner,” ~~as described in Section 297 required by Section 297.5 of~~
 21 the Family Code.

22 SEC. 57. Section 10112 of the Insurance Code is amended to
 23 read:

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

1 accruing or for any money payable thereunder; provided, that all
2 such contracts made by a minor under 16 years of age, as
3 determined by the nearest birthday, shall have the written consent
4 of a parent or guardian, and that the exercise of all contractual
5 rights under such contracts, or the surrender thereof, or the giving
6 of a valid discharge for any benefit accruing or money payable
7 thereunder, in the case of a minor under 16 years of age, as
8 determined by the nearest birthday, shall have the written consent
9 of a parent or guardian.

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

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

23 SEC. 58. Section 10121.5 of the Insurance Code is amended
24 to read:

25 10121.5. (a) When spouses ~~or domestic partners~~ are both
26 employed as employees, and both have enrolled themselves and
27 their eligible family members under a group policy of disability
28 insurance provided by their respective employers, and each spouse
29 ~~or domestic partner~~ is covered as an employee under the terms of
30 the same master policy, each spouse ~~or domestic partner~~ may claim
31 on his or her behalf, or on behalf of his or her enrolled dependents,
32 the combined maximum contractual benefits to which an employee
33 is entitled under the terms of the master policy, not to exceed in
34 the aggregate 100 percent of the charge for the covered expense
35 or service.

36 (b) When spouses ~~or domestic partners~~ are both employed as
37 employees, and both have enrolled themselves and their eligible
38 family members under a self-insured employee welfare benefit
39 plan provided by their respective employers, and each spouse ~~or~~
40 ~~domestic partner~~ is covered as an employee under the terms of the

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

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

11 SEC. 59. Section 10320 of the Insurance Code is amended to
12 read:

13 10320. No policy of accident and sickness insurance shall be
14 delivered or issued for delivery to any person in this State unless:
15 *state unless all of the following apply:*

16 (a) The entire money and other considerations therefor are
17 expressed ~~therein; and therein.~~

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

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

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 subcaptions).~~

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 *applies*.

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 *thereof*.

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

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 *policy*.

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. 60. 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~~ *federation*, or other association for the purpose
3 of promoting intercity competitions or other activities, and/or the
4 participants in dancing, recreational, sporting, educational, social
5 and/or theatrical activities sponsored and/or directed by such
6 system or systems and carried on through the use of any of the
7 facilities of 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 spouses
29 ~~or domestic partners~~ and dependent children who are not married
30 or in registered domestic partnerships and are under 19 years of
31 age, and living in the same household.

32 (d) Pays a filing fee in the amount of seven hundred eight dollars
33 (\$708).

34 SEC. 61. Section 10494.6 of the Insurance Code is amended
35 to read:

36 10494.6. Any employer who qualifies for a certificate of
37 exemption under Section 10494.5 by virtue of which certificate
38 he or she maintains a plan for furnishing disability benefits to his
39 or her employees may, if he or she elects, make available for the
40 related dependents of his or her employees, comprising spouses

1 ~~or domestic partners~~ and dependent children who are not married
2 or in registered domestic partnerships living in the same household,
3 a supplemental plan of disability benefits containing any or all of
4 the following benefits, hospital, surgical and medical; provided,
5 that as to the supplemental plan the Insurance Commissioner finds
6 that all of the following exist:

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

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

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

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

25 SEC. 62. Section 12.2 is added to the Labor Code, to read:

26 12.2. "Spouse" includes ~~"domestic~~ "registered domestic
27 partner," ~~as described in Section 297 required by Section 297.5 of~~
28 the Family Code.

29 SEC. 63. Section 3503 of the Labor Code is amended to read:

30 3503. No person is a dependent of any deceased employee
31 unless in good faith a member of the family or household of the
32 employee, or unless the person bears to the employee the relation
33 of spouse, ~~domestic partner~~, child, posthumous child, adopted child
34 or stepchild, grandchild, father or mother, father-in-law or
35 mother-in-law, grandfather or grandmother, brother or sister, uncle
36 or aunt, brother-in-law or sister-in-law, or nephew or niece.

37 SEC. 64. Section 19 is added to the Military and Veterans
38 Code, to read:

1 19. “Spouse” includes ~~domestic~~ “*registered domestic partner*,”
2 as described in Section 297 ~~required by Section 297.5~~ of the Family
3 Code.

4 SEC. 65. Section 7 of the Penal Code is amended to read:

5 7. Words used in this code in the present tense include the
6 future as well as the present; words used in the masculine gender
7 include the feminine and neuter; the singular number includes the
8 plural, and the plural the singular; the word “person” includes a
9 corporation as well as a natural person; the word “county” includes
10 “city and county”; writing includes printing and typewriting; oath
11 includes affirmation or declaration; and every mode of oral
12 statement, under oath or affirmation, is embraced by the term
13 “testify,” and every written one in the term “depose”; signature or
14 subscription includes mark, when the person cannot write, his or
15 her name being written near it, by a person who writes his or her
16 own name as a witness; provided, that when a signature is made
17 by mark it must, in order that the same may be acknowledged or
18 serve as the signature to any sworn statement, be witnessed by two
19 persons who must subscribe their own names as witnesses thereto.

20 The following words have in this code the signification attached
21 to them in this section, unless otherwise apparent from the context:

22 (1) The word “willfully,” when applied to the intent with which
23 an act is done or omitted, implies simply a purpose or willingness
24 to commit the act, or make the omission referred to. It does not
25 require any intent to violate law, or to injure another, or to acquire
26 any advantage.

27 (2) The words “neglect,” “negligence,” “negligent,” and
28 “negligently” import a want of such attention to the nature or
29 probable consequences of the act or omission as a prudent man
30 ordinarily bestows in acting in his own concerns.

31 (3) The word “corruptly” imports a wrongful design to acquire
32 or cause some pecuniary or other advantage to the person guilty
33 of the act or omission referred to, or to some other person.

34 (4) The words “malice” and “maliciously” import a wish to vex,
35 annoy, or injure another person, or an intent to do a wrongful act,
36 established either by proof or presumption of law.

37 (5) The word “knowingly” imports only a knowledge that the
38 facts exist which bring the act or omission within the provisions
39 of this code. It does not require any knowledge of the unlawfulness
40 of such act or omission.

1 (6) The word “bribe” signifies anything of value or advantage,
2 present or prospective, or any promise or undertaking to give any,
3 asked, given, or accepted, with a corrupt intent to influence,
4 unlawfully, the person to whom it is given, in his or her action,
5 vote, or opinion, in any public or official capacity.

6 (7) The word “vessel,” when used with reference to shipping,
7 includes ships of all kinds, steamboats, canalboats, barges, and
8 every structure adapted to be navigated from place to place for the
9 transportation of merchandise or persons, except that, as used in
10 Sections 192.5 and 193.5, the word “vessel” means a vessel as
11 defined in subdivision (c) of Section 651 of the Harbors and
12 Navigation Code.

13 (8) The words “peace officer” signify any one of the officers
14 mentioned in Chapter 4.5 (commencing with Section 830) of Title
15 3 of Part 2.

16 (9) The word “magistrate” signifies any one of the officers
17 mentioned in Section 808.

18 (10) The word “property” includes both real and personal
19 property.

20 (11) The words “real property” are coextensive with lands,
21 tenements, and hereditaments.

22 (12) The words “personal property” include money, goods,
23 chattels, things in action, and evidences of debt.

24 (13) The word “month” means a calendar month, unless
25 otherwise expressed; the word “daytime” means the period between
26 sunrise and sunset, and the word “nighttime” means the period
27 between sunset and sunrise.

28 (14) The word “will” includes codicil.

29 (15) The word “writ” signifies an order or precept in writing,
30 issued in the name of the people, or of a court or judicial officer,
31 and the word “process” a writ or summons issued in the course of
32 judicial proceedings.

33 (16) Words and phrases must be construed according to the
34 context and the approved usage of the language; but technical
35 words and phrases, and such others as may have acquired a peculiar
36 and appropriate meaning in law, must be construed according to
37 such peculiar and appropriate meaning.

38 (17) Words giving a joint authority to three or more public
39 officers or other persons, are construed as giving such authority

1 to a majority of them, unless it is otherwise expressed in the act
2 giving the authority.

3 (18) When the seal of a court or public officer is required by
4 law to be affixed to any paper, the word “seal” includes an
5 impression of such seal upon the paper alone, or upon any
6 substance attached to the paper capable of receiving a visible
7 impression. The seal of a private person may be made in like
8 manner, or by the scroll of a pen, or by writing the word “seal”
9 against his or her name.

10 (19) The word “state,” when applied to the different parts of
11 the United States, includes the District of Columbia and the
12 territories, and the words “United States” may include the district
13 and territories.

14 (20) The word “section,” whenever hereinafter employed, refers
15 to a section of this code, unless some other code or statute is
16 expressly mentioned.

17 (21) To “book” signifies the recordation of an arrest in official
18 police records, and the taking by the police of fingerprints and
19 photographs of the person arrested, or any of these acts following
20 an arrest.

21 (22) The word “spouse” includes ~~a domestic partner~~, “*registered*
22 *domestic partner*,” as ~~described in Section 297~~ *required by Section*
23 *297.5* of the Family Code.

24 SEC. 66. Section 152.3 of the Penal Code is amended to read:

25 152.3. (a) Any person who reasonably believes that he or she
26 has observed the commission of any of the following offenses
27 where the victim is a child under 14 years of age shall notify a
28 peace officer, as defined in Chapter 4.5 (commencing with Section
29 830) of Title 3 of Part 2:

30 (1) Murder.

31 (2) Rape.

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

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

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

39 (d) Failure to notify as required pursuant to subdivision (a) is a
40 misdemeanor and is punishable by a fine of not more than one

1 thousand five hundred dollars (\$1,500), by imprisonment in a
2 county jail for not more than six months, or by both that fine and
3 imprisonment.

4 (e) The requirements of this section shall not apply to the
5 following:

6 (1) A person who is related to either the victim or the offender,
7 including a spouse, ~~domestic partner~~, parent, child, brother, sister,
8 grandparent, grandchild, or other person related by consanguinity
9 or affinity.

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

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

14 SEC. 67. Section 197 of the Penal Code is amended to read:

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

17 ~~1.—~~

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

21 ~~2.—~~

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

28 ~~3.—~~

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

38 ~~4.—~~

39 (4) When necessarily committed in attempting, by lawful ways
40 and means, to apprehend any person for any felony committed, or

1 in lawfully suppressing any riot, or in lawfully keeping and
2 preserving the peace.

3 SEC. 68. Section 270e of the Penal Code is amended to read:

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

25 SEC. 69. Section 273.5 of the Penal Code is amended to read:

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

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

35 (1) The offender's ~~spouse, domestic partner, former spouse, or~~
36 ~~former domestic partner.~~ *spouse or former spouse.*

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

38 (3) The offender's fiancé or fiancée, or someone with whom
39 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 spouse or ~~domestic partner~~ of
5 the person with whom one is cohabiting is not necessary to
6 constitute 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 person who is married
32 or in a registered domestic partnership is caused in whole or in
33 part by the criminal acts of his or her spouse or domestic partner
34 in violation of this section, the community property may not be
35 used to discharge the liability of the offending spouse or domestic
36 partner for restitution to the injured spouse or domestic partner,
37 required by Section 1203.04, as operative on or before August 2,
38 1995, or Section 1202.4, or to a shelter for costs with regard to the
39 injured spouse or domestic partner and dependents, required by

1 this section, until all separate property of the offending spouse or
2 domestic partner is exhausted.

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

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

17 SEC. 70. Section 281 of the Penal Code is amended to read:

18 281. (a) Every person having a spouse ~~or domestic partner~~
19 living, who marries or enters into a registered domestic partnership
20 with any other person, except in the cases specified in Section 282,
21 is guilty of bigamy.

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

31 SEC. 71. Section 282 of the Penal Code is amended to read:

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

33 (a) To any person by reason of any former marriage *or former*
34 *registered domestic partnership* whose spouse by such ~~marriage,~~
35 ~~or by reason of any former registered domestic partnership whose~~
36 ~~domestic partner by such registered domestic partnership,~~ *marriage*
37 *or registered domestic partnership* has been absent for five
38 successive years without being known to such person within that
39 time to be living.

1 (b) To any person by reason of any former marriage, or any
2 former registered domestic partnership, which has been pronounced
3 void, annulled, or dissolved by the judgment of a competent court.

4 SEC. 72. Section 284 of the Penal Code is amended to read:

5 284. Every person who knowingly and willfully marries or
6 enters into a registered domestic partnership with the spouse ~~or~~
7 ~~domestic partner~~ of another, in any case in which such spouse ~~or~~
8 ~~domestic partner~~ would be punishable under the provisions of this
9 chapter, is punishable by a fine not less than five thousand dollars
10 (\$5,000), or by imprisonment pursuant to subdivision (h) of Section
11 1170.

12 SEC. 73. Section 534 of the Penal Code is amended to read:

13 534. Every person who is married or in a registered domestic
14 partnership, who falsely and fraudulently represents himself or
15 herself as competent to sell or mortgage any real estate, to the
16 validity of which sale or mortgage the assent or concurrence of
17 his or her spouse ~~or domestic partner~~ is necessary, and under such
18 representations willfully conveys or mortgages the same, is guilty
19 of a felony.

20 SEC. 74. Section 4002 of the Penal Code is amended to read:

21 4002. (a) Persons committed on criminal process and detained
22 for trial, persons convicted and under sentence, and persons
23 committed upon civil process, shall not be kept or put in the same
24 room, nor shall male and female prisoners, ~~except spouses or~~
25 ~~domestic partners~~, *spouses*, sleep, dress or undress, bathe, or
26 perform eliminatory functions in the same room. However, persons
27 committed on criminal process and detained for trial may be kept
28 or put in the same room with persons convicted and under sentence
29 for the purpose of participating in supervised activities and for the
30 purpose of housing, provided, that the housing occurs as a result
31 of a classification procedure that is based upon objective criteria,
32 including consideration of criminal sophistication, seriousness of
33 crime charged, presence or absence of assaultive behavior, age,
34 and other criteria that will provide for the safety of the prisoners
35 and staff.

36 (b) Inmates who are held pending civil process under the
37 sexually violent predator laws shall be held in administrative
38 segregation. For purposes of this subdivision, administrative
39 segregation means separate and secure housing that does not
40 involve any deprivation of privileges other than what is necessary

1 to protect the inmates and staff. Consistent with Section 1610, to
2 the extent possible, the person shall continue in his or her course
3 of treatment, if any. An alleged sexually violent predator held
4 pending civil process may waive placement in secure housing by
5 petitioning the court for a waiver. In order to grant the waiver, the
6 court must find that the waiver is voluntary and intelligent, and
7 that granting the waiver would not interfere with any treatment
8 programming for the person requesting the waiver. A person
9 granted a waiver shall be placed with inmates charged with similar
10 offenses or with similar criminal histories, based on the objective
11 criteria set forth in subdivision (a).

12 (c) Nothing in this section shall be construed to impose any
13 requirement upon a county to confine male and female prisoners
14 in the same or an adjoining facility or impose any duty upon a
15 county to establish or maintain programs which involve the joint
16 participation of male and female prisoners.

17 SEC. 75. Section 13700 of the Penal Code is amended to read:

18 13700. As used in this title:

19 (a) “Abuse” means intentionally or recklessly causing or
20 attempting to cause bodily injury, or placing another person in
21 reasonable apprehension of imminent serious bodily injury to
22 himself or herself, or another.

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

37 (c) “Officer” means any officer or employee of a local police
38 department or sheriff’s office, and any peace officer of the
39 Department of the California Highway Patrol, the Department of
40 Parks and Recreation, the University of California Police

1 Department, or the California State University and College Police
2 Departments, as defined in Section 830.2, a peace officer of the
3 Department of General Services of the City of Los Angeles, as
4 defined in subdivision (c) of Section 830.31, a housing authority
5 patrol officer, as defined in subdivision (d) of Section 830.31, a
6 peace officer as defined in subdivisions (a) and (b) of Section
7 830.32, or a peace officer as defined in subdivision (a) of Section
8 830.33.

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

11 SEC. 76. Section 59 of the Probate Code is amended to read:

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

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

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

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

26 SEC. 77. Section 72 is added to the Probate Code, to read:

27 72. “Spouse” includes domestic partner, as defined in Section
28 ~~37. 37~~ of this code, as required by Section 297.5 of the Family
29 Code.

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

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

32 (a) A person whose marriage to, or registered domestic
33 partnership with, the decedent has been dissolved or annulled,
34 unless, by virtue of a subsequent marriage or registered domestic
35 partnership, the person is married to, or in a registered domestic
36 partnership with, the decedent at the time of death.

37 (b) A person who obtains or consents to a final decree or
38 judgment of dissolution of marriage or termination of registered
39 domestic partnership from the decedent or a final decree or
40 judgment of annulment of their marriage or termination of

1 registered domestic partnership, which decree or judgment is not
2 recognized as valid in this state, unless they (1) subsequently
3 participate in a marriage ceremony purporting to marry each to
4 the other or (2) subsequently live together as ~~spouses or domestic~~
5 ~~partners:~~ *spouses*.

6 (c) A person who, following a decree or judgment of dissolution
7 or annulment of marriage or registered domestic partnership
8 obtained by the decedent, participates in a marriage ceremony with
9 a third person.

10 (d) A person who was a party to a valid proceeding concluded
11 by an order purporting to terminate all marital or registered
12 domestic partnership property rights.

13 SEC. 79. Section 100 of the Probate Code is amended to read:

14 100. (a) Upon the death of a person who is married or in a
15 registered domestic partnership, one-half of the community
16 property belongs to the surviving spouse ~~or surviving domestic~~
17 ~~partner~~ and the other one-half belongs to the decedent.

18 (b) Notwithstanding subdivision (a), ~~spouses or domestic~~
19 ~~partners~~ may agree in writing to divide their community property
20 on the basis of a non pro rata division of the aggregate value of
21 the community property or on the basis of a division of each
22 individual item or asset of community property, or partly on each
23 basis. Nothing in this subdivision shall be construed to require this
24 written agreement in order to permit or recognize a non pro rata
25 division of community property.

26 SEC. 80. Section 101 of the Probate Code is amended to read:

27 101. (a) Upon the death of a person who is married or in a
28 registered domestic partnership, and is domiciled in this state,
29 one-half of the decedent's quasi-community property belongs to
30 the surviving spouse ~~or surviving domestic partner~~ and the other
31 one-half belongs to the decedent.

32 (b) Notwithstanding subdivision (a), ~~spouses or domestic~~
33 ~~partners~~ may agree in writing to divide their quasi-community
34 property on the basis of a non pro rata division of the aggregate
35 value of the quasi-community property, or on the basis of a division
36 of each individual item or asset of quasi-community property, or
37 partly on each basis. Nothing in this subdivision shall be construed
38 to require this written agreement in order to permit or recognize
39 a non pro rata division of quasi-community property.

40 SEC. 81. Section 103 of the Probate Code is amended to read:

1 103. Except as provided by Section 224, if spouses ~~or domestic~~
2 ~~partners~~ die leaving community or quasi-community property and
3 it cannot be established by clear and convincing evidence that one
4 spouse ~~or domestic partner~~ survived the other:

5 (a) One-half of the community property and one-half of the
6 quasi-community property shall be administered or distributed, or
7 otherwise dealt with, as if one spouse ~~or domestic partner~~ had
8 survived and as if that ~~half one-half~~ belonged to that ~~spouse or~~
9 ~~domestic partner~~. *spouse*.

10 (b) The other ~~half one-half~~ of the community property and the
11 other ~~half one-half~~ of the quasi-community property shall be
12 administered or distributed, or otherwise dealt with, as if the other
13 spouse ~~or domestic partner~~ had survived and as if that ~~half one-half~~
14 belonged to that ~~spouse or domestic partner~~. *spouse*.

15 SEC. 82. Section 2407 of the Probate Code is amended to read:

16 2407. This chapter applies to property owned by spouses ~~or~~
17 ~~domestic partners~~ as community property only to the extent
18 authorized by Part 6 (commencing with Section 3000).

19 SEC. 83. Section 5040 of the Probate Code is amended to read:

20 5040. (a) Except as provided in subdivision (b), a nonprobate
21 transfer to the transferor's former ~~spouse or former domestic~~
22 ~~partner~~, *spouse*, in an instrument executed by the transferor before
23 or during the marriage or registered domestic partnership, fails if,
24 at the time of the transferor's death, the former spouse ~~or former~~
25 ~~domestic partner~~ is not the transferor's surviving spouse as defined
26 in Section 78, as a result of the dissolution or annulment of the
27 marriage or termination of registered domestic partnership. A
28 judgment of legal separation that does not terminate the status of
29 spouses ~~or domestic partners~~ is not a dissolution for purposes of
30 this section.

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

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

35 (2) There is clear and convincing evidence that the transferor
36 intended to preserve the nonprobate transfer to the former ~~spouse~~
37 ~~or former domestic partner~~. *spouse*.

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

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

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

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

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

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

16 SEC. 84. Section 5042 of the Probate Code is amended to read:

17 5042. (a) Except as provided in subdivision (b), a joint tenancy
18 between the decedent and the decedent’s former ~~spouse or former~~
19 ~~domestic partner~~, *spouse*, created before or during the marriage or
20 registered domestic partnership, is severed as to the decedent’s
21 interest if, at the time of the decedent’s death, the former spouse
22 ~~or former domestic partner~~ is not the decedent’s surviving spouse
23 as defined in Section 78, as a result of the dissolution or annulment
24 of the marriage or registered domestic partnership. A judgment of
25 legal separation that does not terminate the status of spouses ~~or~~
26 ~~domestic partners~~ is not a dissolution for purposes of this section.

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

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

31 (2) There is clear and convincing evidence that the decedent
32 intended to preserve the joint tenancy in favor of the former ~~spouse~~
33 ~~or former domestic partner~~. *spouse*.

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

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

1 SEC. 85. Section 5203 of the Probate Code is amended to read:
2 5203. (a) Words in substantially the following form in a
3 signature card, passbook, contract, or instrument evidencing an
4 account, or words to the same effect, executed before, on, or after
5 July 1, 1990, create the following accounts:

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

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

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

16 (4) Joint account of ~~spouses or domestic partners~~ with right of
17 survivorship: “This account or certificate is owned by the named
18 parties, who are ~~spouses or domestic partners~~, *spouses*, and is
19 presumed to be their community property. Upon the death of either
20 of them, ownership passes to the survivor.”

21 (5) Community property account of ~~spouses or domestic~~
22 ~~partners~~: *spouses*: “This account or certificate is the community
23 property of the named parties who are ~~spouses or domestic partners~~.
24 *spouses*. The ownership during lifetime and after the death of a
25 spouse ~~or domestic partner~~ is determined by the law applicable to
26 community property generally and may be affected by a will.”

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

32 (b) Use of the form language provided in this section is not
33 necessary to create an account that is governed by this part. If the
34 contract of deposit creates substantially the same relationship
35 between the parties as an account created using the form language
36 provided in this section, this part applies to the same extent as if
37 the form language had been used.

38 SEC. 86. Section 6122 of the Probate Code is amended to read:

1 6122. (a) Unless the will expressly provides otherwise, if after
2 executing a will the testator's marriage is dissolved or annulled,
3 the dissolution or annulment revokes all of the following:

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

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

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

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

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

14 (1) Property prevented from passing to a former spouse because
15 of the revocation passes as if the former spouse failed to survive
16 the testator.

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

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

25 (e) Except as provided in Section 6122.1, no change of
26 circumstances other than as described in this section revokes a
27 will.

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

32 SEC. 87. Section 6227 of the Probate Code is amended to read:

33 6227. (a) If after executing a California statutory will the
34 testator's marriage is dissolved or annulled, or the testator's
35 registered domestic partnership is terminated, the dissolution,
36 annulment, or termination revokes any disposition of property
37 made by the will to the former spouse ~~or former domestic partner~~
38 and any nomination of the former spouse ~~or former domestic~~
39 ~~partner~~ as executor, trustee, guardian, or custodian made by the
40 will. If any disposition or nomination is revoked solely by this

1 section, it is revived by the testator’s remarriage to, or entry into
2 a subsequent registered domestic partnership with, the former
3 spouse or former domestic partner. *spouse.*

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

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

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

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

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

26 SEC. 88. Section 6240 of the Probate Code is amended to read:
27 6240. The following is the California Statutory Will form:

28

29 QUESTIONS AND ANSWERS ABOUT THIS CALIFORNIA
30 STATUTORY WILL

31

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

37

38 1. *What happens if I die without a Will?* If you die without a
39 Will, what you own (your “assets”) in your name alone will be
40 divided among your spouse, domestic partner, children, or other

1 relatives according to state law. The court will appoint a relative
2 to collect and distribute your assets.

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

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

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

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

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

35 7. *Who may use this Will?* This Will is based on California
36 law. It is designed only for California residents. You may use this
37 form if you are single, married, a member of a domestic
38 partnership, or divorced. You must be age 18 or older and of sound
39 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 spouse or domestic partner
35 under this Will, and revokes the designation of a former spouse
36 or domestic partner as executor, custodian, or guardian. You should
37 sign a new Will when you have more children, or if your spouse
38 or a child dies, or a domestic partner dies or marries. You may
39 want to change your Will if there is a large change in the value of
40 your assets. You may also want to change your Will if you enter

1 a domestic partnership or your domestic partnership has been
2 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 or~~
34 ~~domestic partner~~, spouse, then certain assets may go to the
35 relative’s descendants.

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

1 a “beneficiary”) on the terms you specify. Trusts are too
2 complicated to be used in this Statutory Will. You should see a
3 lawyer if you want to create a trust.

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

15
16
17

INSTRUCTIONS

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

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

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

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

CALIFORNIA STATUTORY WILL OF

Print Your Full Name

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

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

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

--

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

--

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

--

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

--

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

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

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

--

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

--

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

--

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

--

4. Specific Gifts of Cash. (Optional) I make the following cash gifts to the persons named below who survive me, or to the named charity, and I sign my name in the box after each gift. If I do not sign in the box, I do not make a gift. (Sign in the box after each gift you make.)

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

Name of Person or Charity to receive gift (name one only—please print)	Amount of Cash Gift
	Sign your name in this box to make this gift

5. Balance of My Assets. Except for the specific gifts made in paragraphs 2, 3 and 4 above, I give the balance of my assets as follows:

(Select one choice only and sign in the box after your choice. If I sign in more than one box or if I do not sign in any box, the court will distribute my assets as if I did not make a Will.)

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

--

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

--

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

--

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

6. Guardian of the Child’s Person. If, at my death, I have a child under age 18, whether the child is alive at the time this will is executed or born after the date this will is executed, and the child does not have a living parent, I nominate the individual named below as First Choice as guardian of the person of that child (to raise the child). If the First Choice does not serve, then I nominate the Second Choice, and then the Third Choice, to serve. Only an individual (not a bank or trust company) may serve.

Name of First Choice for Guardian of the Person

Name of Second Choice for Guardian of the Person

Name of Third Choice for Guardian of the Person

7. Special Provision for Property of Persons Under Age 25. (Optional—unless you use this paragraph, assets that go to a child or other person who is under age 18 may be given to the parent of the person, or to the Guardian named in paragraph 6 above as guardian of the person until age 18, and the court will require a bond, and assets that go to a child or other person who is age 18 or older will be given outright to the person. By using this paragraph you may provide that a custodian will hold the assets for the person until the person reaches any age from 18 to 25 which you choose.) If a beneficiary of this Will is under the age chosen below, I nominate the individual or bank or trust company named below as First Choice as custodian of the property. If the First Choice does not serve, then I nominate the Second Choice, and then the Third Choice, to serve.

Name of First Choice for Custodian of Assets

Name of Second Choice for Custodian of Assets

Name of Third Choice for Custodian of Assets

Insert any age from 18 to 25 as the age for the person to receive the property:
(If you do not choose an age, age 18 will apply.)

8. Executor. I nominate the individual or bank or trust company named below as First Choice as executor. If the First Choice does not serve, then I nominate the Second Choice, and then the Third Choice, to serve.

Name of First Choice for Executor

Name of Second Choice for Executor

Name of Third Choice for Executor

9. Bond. My signature in this box means a bond is not required for any person named as executor. A bond may be required if I do not sign in this box:

No bond shall be required.

(Notice: You must sign this Will in the presence of two (2) adult witnesses. The witnesses must sign their names in your presence. You must first read to them the following sentence.)

This is my Will: I ask the persons who sign below to be my witnesses.

Signed on _____ at _____, California.
(date) (city)

Signature of Maker of Will

(Notice to Witnesses: Two (2) adults must sign as witnesses. Each witness must read the following clause before signing. The witnesses should not receive assets under this Will.)

Each of us declares under penalty of perjury under the laws of the State of California that the following is true and correct:

- a. On the date written below the maker of this Will declared to us that this instrument was the maker's Will and requested us to act as witnesses to it;
- b. We understand this is the maker's Will;
- c. The maker signed this Will in our presence, all of us being present at the same time;

d. We now, at the maker’s request, and in the maker’s presence, sign below as witnesses;

e. We believe the maker is of sound mind and memory;

f. We believe that this Will was not procured by duress, menace, fraud or undue influence;

g. The maker is age 18 or older; and

h. Each of us is now age 18 or older, is a competent witness, and resides at the address set forth after his or her name.

Dated: _____ , _____

Signature of witness

Signature of witness

Print name here:

Print name here:

Residence address:

Residence address:

AT LEAST TWO WITNESSES MUST SIGN

1 SEC. 89. Section 13500 of the Probate Code is amended to
2 read:

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

12 SEC. 90. Section 13600 of the Probate Code is amended to
13 read:

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

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

27 (c) For the purposes of this chapter, a guardian or conservator
28 of the estate of the surviving spouse ~~or surviving domestic partner~~
29 may act on behalf of the surviving spouse ~~or surviving domestic~~
30 ~~partner~~ without authorization or approval of the court in which the
31 guardianship or conservatorship proceeding is pending.

32 (d) The fifteen-thousand-dollar (\$15,000) net limitation set forth
33 in subdivisions (a) and (b) does not apply to the surviving ~~spouse,~~
34 ~~surviving domestic partner, spouse~~ or the guardian or conservator
35 of the estate of the surviving spouse ~~or surviving domestic partner~~
36 of a firefighter or peace officer described in subdivision (a) of
37 Section 22820 of the Government Code.

38 (e) On January 1, 2003, and on January 1 of each year thereafter,
39 the maximum net amount of salary or compensation payable under
40 subdivisions (a) and (b) to the surviving ~~spouse, surviving domestic~~

1 partner, spouse or the guardian or conservator of the estate of the
2 surviving spouse or surviving domestic partner may be adjusted
3 to reflect any increase in the cost of living occurring after January
4 1 of the immediately preceding year. The United States city average
5 of the “Consumer Price Index for All Urban Consumers,” as
6 published by the United States Bureau of Labor Statistics, shall
7 be used as the basis for determining the changes in the cost of
8 living. The cost-of-living increase shall equal or exceed 1 percent
9 before any adjustment is made. The net amount payable may not
10 be decreased as a result of the cost-of-living adjustment.

11 SEC. 91. Section 10430 of the Public Contract Code is amended
12 to read:

13 10430. This chapter does not apply to any of the following:

14 (a) The Regents of the University of California and the Trustees
15 of the California State University, except that Article 9
16 (commencing with Section 10420) shall apply to the Trustees of
17 the California State University.

18 (b) (1) Transactions covered under Chapter 3 (commencing
19 with Section 12100), except that Sections 10365.5, 10410, and
20 10411 shall apply to all transactions under that chapter.

21 (2) Notwithstanding paragraph (1), Section 10365.5 shall not
22 apply to incidental advice or suggestions made outside of the scope
23 of a consulting services contract.

24 (3) (A) Notwithstanding paragraph (1), Section 10365.5 shall
25 not apply to a contract that is part of a single competitive
26 procurement conducted in more than one stage for information
27 technology goods or services, when the Director of the Department
28 of General Services and the Chief Information Officer determine
29 that there is no conflict of interest under Section 10365.5 and that
30 it is in the best interest of the state to utilize this procurement
31 method. Nothing in this section shall preclude the applicability of
32 Section 12112 to this procurement method.

33 (B) The Department of General Services shall annually submit
34 a report on its Internet Web site describing each determination
35 granted pursuant to subparagraph (A), listing the basis for the
36 determination, and disclosing the total amount of money paid or
37 to be paid to the contractor under the contract that was the subject
38 of the determination. The department shall provide notice to the
39 Joint Legislative Budget Committee within 30 days of the posting
40 of the report.

1 ~~(C) For purposes of this paragraph, “information technology”~~
2 ~~means information technology goods or services, or both, as~~
3 ~~appropriate.~~

4 ~~(e) Except as otherwise provided in this chapter, any entity~~
5 ~~exempted from Section 10295. However, the Board of Governors~~
6 ~~of the California Community Colleges shall be governed by this~~
7 ~~chapter, except as provided in Sections 10295, 10335, and 10389.~~
8 ~~The Department of Water Resources shall be governed by this~~
9 ~~chapter, except as provided in Sections 10295.6, 10304.1, 10335,~~
10 ~~and 10340.~~

11 ~~(d) Transactions covered under Chapter 10 (commencing with~~
12 ~~Section 4525) of Division 5 of Title 1 of the Government Code.~~

13 ~~(e) Except as provided for in subdivision (c), members of boards~~
14 ~~or commissions who receive no payment other than payment for~~
15 ~~each meeting of the board or commission, payment for preparatory~~
16 ~~time, and payment for per diem.~~

17 ~~(f) The emergency purchase of protective vests for correctional~~
18 ~~peace officers whose duties require routine contact with state prison~~
19 ~~inmates. This subdivision shall remain operative only until January~~
20 ~~1, 1987.~~

21 ~~(g) Spouses or domestic partners of state officers or employees~~
22 ~~and individuals and entities that employ spouses or domestic~~
23 ~~partners of state officers and employees, that are vendored to~~
24 ~~provide services to regional center clients pursuant to Section 4648~~
25 ~~of the Welfare and Institutions Code if the vendor of services, in~~
26 ~~that capacity, does not receive any material financial benefit,~~
27 ~~distinguishable from the benefit to the public generally, from any~~
28 ~~governmental decision made by the state officer or employee.~~

29 *SEC. 91. Section 11005 is added to the Public Contract Code,*
30 *to read:*

31 *11005. “Spouse,” as used in this code, includes “registered*
32 *domestic partner,” as required by Section 297.5 of the Family*
33 *Code.*

34 *SEC. 92. Section 12.2 is added to the Public Resources Code,*
35 *to read:*

36 *12.2. “Spouse” includes—“domestic “registered domestic*
37 *partner,” as described in Section 297 required by Section 297.5 of*
38 *the Family Code.*

39 *SEC. 93. Section 12.2 is added to the Public Utilities Code, to*
40 *read:*

1 12.2. “Spouse” includes ~~“domestic~~ “*registered domestic*
2 partner,” ~~as described in Section 297 required by Section 297.5 of~~
3 the Family Code.

4 SEC. 94. Section 12.2 is added to the Revenue and Taxation
5 Code, to read:

6 12.2. “Spouse” includes ~~“domestic~~ “*registered domestic*
7 partner,” ~~as described in Section 297 required by Section 297.5 of~~
8 the Family Code.

9 SEC. 95. Section 17021 of the Revenue and Taxation Code is
10 amended to read:

11 17021. As used in this part, if the spouses ~~or domestic partners~~
12 therein referred to are ~~divorced or are no longer domestic partners,~~
13 *divorced or their registered domestic partnership has been*
14 *terminated*, wherever appropriate to the meaning of this part, the
15 term “spouse” shall be read “former spouse.”

16 SEC. 96. Section 17039 of the Revenue and Taxation Code is
17 amended to read:

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

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

32 (2) Credits that contain carryover provisions but do not contain
33 refundable provisions, except for those that are allowed to reduce
34 “net tax” below the tentative minimum tax, as defined by Section
35 17062.

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

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

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

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

5 (7) Credits that contain refundable provisions but do not contain
6 carryover provisions.

7 The order within each paragraph shall be determined by the
8 Franchise Tax Board.

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

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

19 (A) The credit allowed by Section 17052.2 (relating to teacher
20 retention tax credit).

21 (B) The credit allowed by former Section 17052.4 (relating to
22 solar energy).

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

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

27 (E) The credit allowed by Section 17052.12 (relating to research
28 expenses).

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

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

33 (H) The credit allowed by Section 17052.25 (relating to the
34 adoption costs credit).

35 (I) The credit allowed by Section 17053.5 (relating to the
36 renter’s credit).

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

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

- 1 (L) The credit allowed by former Section 17053.11 (relating to
2 program area hiring credit).
- 3 (M) For each taxable year beginning on or after January 1, 1994,
4 the credit allowed by former Section 17053.17 (relating to Los
5 Angeles Revitalization Zone hiring credit).
- 6 (N) The credit allowed by Section 17053.33 (relating to targeted
7 tax area sales or use tax credit).
- 8 (O) The credit allowed by Section 17053.34 (relating to targeted
9 tax area hiring credit).
- 10 (P) The credit allowed by Section 17053.49 (relating to qualified
11 property).
- 12 (Q) The credit allowed by Section 17053.70 (relating to
13 enterprise zone sales or use tax credit).
- 14 (R) The credit allowed by Section 17053.74 (relating to
15 enterprise zone hiring credit).
- 16 (S) The credit allowed by Section 17054 (relating to credits for
17 personal exemption).
- 18 (T) The credit allowed by Section 17054.5 (relating to the credits
19 for a qualified joint custody head of household and a qualified
20 taxpayer with a dependent parent).
- 21 (U) The credit allowed by Section 17054.7 (relating to the credit
22 for a senior head of household).
- 23 (V) The credit allowed by former Section 17057 (relating to
24 clinical testing expenses).
- 25 (W) The credit allowed by Section 17058 (relating to
26 low-income housing).
- 27 (X) For taxable years beginning on or after January 1, 2014, the
28 credit allowed by Section 17059.2 (relating to GO-Biz California
29 Competes Credit).
- 30 (Y) The credit allowed by Section 17061 (relating to refunds
31 pursuant to the Unemployment Insurance Code).
- 32 (Z) Credits for taxes paid to other states allowed by Chapter 12
33 (commencing with Section 18001).
- 34 (AA) The credit allowed by Section 19002 (relating to tax
35 withholding).
- 36 (AB) For taxable years beginning on or after January 1, 2014,
37 the credit allowed by Section 17053.86 (relating to the College
38 Access Tax Credit Fund).

1 (AC) For taxable years beginning on or after January 1, 2017,
2 the credit allowed by Section 17053.87 (relating to the College
3 Access Tax Credit Fund).

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

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

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

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

23 (3) In the case of ~~spouses or domestic partners~~ who file separate
24 returns, the credit may be taken by either or equally divided
25 between them.

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

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

37 (2) The amount of any credit otherwise allowed under this part,
38 including any credit carryover from prior years, that may be applied
39 to reduce the taxpayer's "net tax," as defined in subdivision (a),
40 for the taxable year shall be limited to an amount equal to the

1 excess of the taxpayer's regular tax (as defined in Section 17062),
2 determined by including income attributable to the disregarded
3 business entity that generated the credit or credit carryover, over
4 the taxpayer's regular tax (as defined in Section 17062), determined
5 by excluding the income attributable to that disregarded business
6 entity. No credit shall be allowed if the taxpayer's regular tax (as
7 defined in Section 17062), determined by including the income
8 attributable to the disregarded business entity, is less than the
9 taxpayer's regular tax (as defined in Section 17062), determined
10 by excluding the income attributable to the disregarded business
11 entity.

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

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

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

29 (3) This subdivision shall apply to credits that become
30 inoperative on or after the operative date of the act adding this
31 subdivision.

32 SEC. 97. Section 17045 of the Revenue and Taxation Code is
33 amended to read:

34 17045. In the case of a joint return of ~~a married couple or~~
35 ~~domestic partners~~ *spouses* under Section 18521, the tax imposed
36 by Section 17041 shall be twice the tax which would be imposed
37 if the taxable income were cut in ~~half~~ *one-half*.

38 For purposes of this section, a return of a surviving spouse (as
39 defined in Section 17046) ~~or a surviving domestic partner~~ shall be

1 treated as a joint return of ~~a married couple or domestic partners.~~
2 *spouses.*

3 SEC. 98. Section 17053.5 of the Revenue and Taxation Code
4 is amended to read:

5 17053.5. (a) (1) For a qualified renter, there shall be allowed
6 a credit against his or her “net tax,” as defined in Section 17039.

7 The amount of the credit shall be as follows:

8 (A) For ~~married couples or domestic partners~~ *spouses* filing
9 joint returns, heads of household, ~~surviving domestic partners,~~ and
10 surviving spouses, as defined in Section 17046, the credit shall be
11 equal to one hundred twenty dollars (\$120) if adjusted gross income
12 is fifty thousand dollars (\$50,000) or less.

13 (B) For other individuals, the credit shall be equal to sixty dollars
14 (\$60) if adjusted gross income is twenty-five thousand dollars
15 (\$25,000) or less.

16 (2) Except as provided in subdivision (b), ~~a married couple or~~
17 ~~domestic partners~~ *spouses* shall receive but one credit under this
18 section. If the spouses ~~or domestic partners~~ file separate returns,
19 the credit may be taken by either or equally divided between them,
20 except as follows:

21 (A) If one spouse ~~or domestic partner~~ was a resident for the
22 entire taxable year and the other spouse ~~or domestic partner~~ was
23 a nonresident for part or all of the taxable year, the resident spouse
24 ~~or domestic partner~~ shall be allowed one-half the credit allowed
25 to married persons and the nonresident spouse ~~or domestic partner~~
26 shall be permitted one-half the credit allowed to married persons
27 ~~or domestic partners,~~ *persons*, prorated as provided in subdivision
28 (e).

29 (B) If both spouses ~~or domestic partners~~ were nonresidents for
30 part of the taxable year, the credit allowed to married persons ~~or~~
31 ~~domestic partners~~ shall be divided equally between them subject
32 to the proration provided in subdivision (e).

33 (b) For ~~a married couple or domestic partners,~~ *spouses*, if each
34 spouse ~~or domestic partner~~ maintained a separate place of residence
35 and resided in this state during the entire taxable year, each spouse
36 ~~or domestic partner~~ will be allowed one-half the full credit allowed
37 to married persons ~~or domestic partners~~ provided in subdivision
38 (a).

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

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

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

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

6 (1) An individual who for more than 50 percent of the taxable
7 year rented and occupied premises that were exempt from property
8 taxes, except that an individual, otherwise qualified, is deemed a
9 qualified renter if he or she or his or her landlord pays possessory
10 interest taxes, or the owner of those premises makes payments in
11 lieu of property taxes that are substantially equivalent to property
12 taxes paid on properties of comparable market value.

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

16 (3) An individual who has been granted or whose spouse ~~or~~
17 ~~domestic partner~~ has been granted the homeowners’ property tax
18 exemption during the taxable year. This paragraph does not apply
19 to an individual whose spouse ~~or domestic partner~~ has been granted
20 the homeowners’ property tax exemption if each spouse ~~or~~
21 ~~domestic partner~~ maintained a separate residence for the entire
22 taxable year.

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

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

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

35 (h) For purposes of this section, “premises” means a house or
36 a dwelling unit used to provide living accommodations in a
37 building or structure and the land incidental thereto, but does not
38 include land only, unless the dwelling unit is a mobilehome. The
39 credit is not allowed for any taxable year for the rental of land

1 upon which a mobilehome is located if the mobilehome has been
2 granted a homeowners' exemption under Section 218 in that year.

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

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

9 (1) The Department of Industrial Relations shall transmit
10 annually to the Franchise Tax Board the percentage change in the
11 California Consumer Price Index for all items from June of the
12 prior calendar year to June of the current year, no later than August
13 1 of the current calendar year.

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

18 (3) The Franchise Tax Board shall multiply the amount in
19 subparagraph (B) of paragraph (1) of subdivision (d) for the
20 preceding taxable year 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 amounts pursuant to this subdivision, the
24 amounts provided in subparagraph (A) of paragraph (1) of
25 subdivision (a) shall be twice the amount provided in subparagraph
26 (B) of paragraph (1) of subdivision (a).

27 SEC. 99. Section 17054 of the Revenue and Taxation Code is
28 amended to read:

29 17054. In the case of individuals, the following credits for
30 personal exemption may be deducted from the tax imposed under
31 Section 17041 or 17048, less any increases imposed under
32 paragraph (1) of subdivision (d) or paragraph (1) of subdivision
33 (e), or both, of Section 17560.

34 (a) In the case of a single individual, a head of household, or a
35 ~~married individual or domestic partner~~ *spouse* making a separate
36 return, a credit of fifty-two dollars (\$52).

37 (b) In the case of a ~~surviving domestic partner~~, surviving spouse
38 (as defined in Section 17046), or a ~~married couple or domestic~~
39 ~~partners~~ *spouses* making a joint return, a credit of one hundred
40 four dollars (\$104). If one spouse ~~or domestic partner~~ was a

1 resident for the entire taxable year and the other spouse or domestic
2 partner was a nonresident for all or any portion of the taxable year,
3 the personal exemption shall be divided equally.

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

7 (d) (1) A credit of two hundred twenty-seven dollars (\$227)
8 for each dependent (as defined in Section 17056) for whom an
9 exemption is allowable under Section 151(c) of the Internal
10 Revenue Code, relating to additional exemption for dependents.
11 The credit allowed under this subdivision for taxable years
12 beginning on or after January 1, 1999, shall not be adjusted
13 pursuant to subdivision (i) for any taxable year beginning before
14 January 1, 2000.

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

20 (B) A disallowance of a credit due to the omission of a correct
21 identification number required under this paragraph, may be
22 assessed by the Franchise Tax Board in the same manner as is
23 provided by Section 19051 in the case of a mathematical error
24 appearing on the return. A claimant shall have the right to claim
25 a credit or refund of adjusted amounts within the period provided
26 in Section 19306, 19307, 19308, or 19311, whichever period
27 expires later.

28 (3) (A) For taxable years beginning on or after January 1, 2009,
29 the credit allowed under paragraph (1) for each dependent shall
30 be equal to the credit allowed under subdivision (a). This
31 subparagraph shall cease to be operative for taxable years beginning
32 on or after January 1, 2011, unless the Director of Finance makes
33 the notification pursuant to Section 99040 of the Government
34 Code, in which case this subparagraph shall cease to be operative
35 for taxable years beginning on or after January 1, 2013.

36 (B) For taxable years that subparagraph (A) ceases to be
37 operative, the credit allowed under paragraph (1) for each
38 dependent shall be equal to the amount that would be allowed if
39 subparagraph (A) had never been operative.

1 (e) A credit for personal exemption of fifty-two dollars (\$52)
2 for the taxpayer if he or she is blind at the end of his or her taxable
3 year.

4 (f) A credit for personal exemption of fifty-two dollars (\$52)
5 for the spouse ~~or domestic partner~~ of the taxpayer if a separate
6 return is made by the taxpayer, and if the spouse ~~or domestic~~
7 ~~partner~~ is blind and, for the calendar year in which the taxable year
8 of the taxpayer begins, has no gross income and is not the
9 dependent of another taxpayer.

10 (g) For the purposes of this section, an individual is blind only
11 if either (1) his or her central visual acuity does not exceed 20/200
12 in the better eye with correcting lenses, or (2) his or her visual
13 acuity is greater than 20/200 but is accompanied by a limitation
14 in the fields of vision such that the widest diameter of the visual
15 field subtends an angle no greater than 20 degrees.

16 (h) In the case of an individual with respect to whom a credit
17 under this section is allowable to another taxpayer for a taxable
18 year beginning in the calendar year in which the individual's
19 taxable year begins, the credit amount applicable to that individual
20 for that individual's taxable year is zero.

21 (i) For each taxable year beginning on or after January 1, 1989,
22 the Franchise Tax Board shall compute the credits prescribed in
23 this section. That computation shall be made as follows:

24 (1) The Department of Industrial Relations shall transmit
25 annually to the Franchise Tax Board the percentage change in the
26 California Consumer Price Index for all items from June of the
27 prior calendar year to June of the current calendar year, no later
28 than August 1 of the current calendar year.

29 (2) The Franchise Tax Board shall add 100 percent to the
30 percentage change figure which is furnished to them pursuant to
31 paragraph (1), and divide the result by 100.

32 (3) The Franchise Tax Board shall multiply the immediately
33 preceding taxable year credits by the inflation adjustment factor
34 determined in paragraph (2), and round off the resulting products
35 to the nearest one dollar (\$1).

36 (4) In computing the credits pursuant to this subdivision, the
37 credit provided in subdivision (b) shall be twice the credit provided
38 in subdivision (a).

39 SEC. 100. Section 17077 of the Revenue and Taxation Code
40 is amended to read:

1 17077. Section 68 of the Internal Revenue Code, relating to
2 overall limitation on itemized deductions, shall apply, except as
3 otherwise provided.

4 (a) “Six percent” shall be substituted for “3 percent” in Section
5 68(a)(1) of the Internal Revenue Code.

6 (b) Section 68(b)(1) of the Internal Revenue Code shall not
7 apply and in lieu thereof the term “applicable amount” in each
8 place it appears in Section 68(a) of the Internal Revenue Code
9 means one hundred thousand dollars (\$100,000) in the case of a
10 single individual, ~~married individual, or domestic partner~~ *or a*
11 *spouse* filing a separate return, one hundred fifty thousand dollars
12 (\$150,000) in the case of a head of household, and two hundred
13 thousand dollars (\$200,000) in the case of a surviving spouse,
14 ~~surviving domestic partner, married couple, or domestic partners~~
15 *or spouses* filing a joint return.

16 (c) Section 68(b)(2) of the Internal Revenue Code, relating to
17 inflation adjustments, shall not apply. However, for any taxable
18 year beginning on or after January 1, 1992, the applicable amounts
19 specified in subdivision (b) shall be recomputed annually in the
20 same manner as the recomputation of income tax brackets under
21 subdivision (h) of Section 17041.

22 (d) Section 68(f) of the Internal Revenue Code, relating to
23 phaseout of limitation, shall not apply.

24 (e) Section 68(g) of the Internal Revenue Code, relating to
25 termination, shall not apply.

26 SEC. 101. Section 17555 of the Revenue and Taxation Code
27 is amended to read:

28 17555. In any case where ~~spouses or domestic partners~~ file
29 separate returns, the Franchise Tax Board may distribute, apportion,
30 or allocate gross income between the ~~spouses or domestic partners,~~
31 *spouses*, if it is determined that such distribution, apportionment,
32 or allocation is necessary in order to reflect the proper income of
33 ~~the spouses or domestic partners.~~ *spouses.*

34 SEC. 102. Section 18501 of the Revenue and Taxation Code
35 is amended to read:

36 18501. (a) Every individual taxable under Part 10
37 (commencing with Section 17001) shall make a return to the
38 Franchise Tax Board, stating specifically the items of the
39 individual’s gross income from all sources and the deductions and

1 credits allowable, if the individual has any of the following for the
2 taxable year:

3 (1) An adjusted gross income from all sources in excess of eight
4 thousand dollars (\$8,000), if single.

5 (2) An adjusted gross income from all sources in excess of
6 sixteen thousand dollars (\$16,000), if married or in a registered
7 domestic partnership.

8 (3) A gross income from all sources in excess of ten thousand
9 dollars (\$10,000), if single, and twenty thousand dollars (\$20,000),
10 if married or in a registered domestic partnership, regardless of
11 the amount of adjusted gross income.

12 (4) In the case of an individual described in Section 63(c)(5) of
13 the Internal Revenue Code, relating to limitation on basic standard
14 deduction in the case of certain dependents, a gross income from
15 all sources that exceeds the amount of the standard deduction
16 allowed under that section.

17 (b) ~~If a married couple or domestic partners~~ *spouses* have for
18 the taxable year an adjusted gross income from all sources in excess
19 of sixteen thousand dollars (\$16,000) or a gross income from all
20 sources in excess of twenty thousand dollars (\$20,000), each spouse
21 ~~or domestic partner~~ shall make a return or the income of each shall
22 be included on a single joint return as otherwise provided in this
23 article.

24 (c) For any individual described in paragraph (1) or (2), the
25 Franchise Tax Board shall recompute the amounts provided in
26 subdivision (b) and paragraphs (1) to (3), inclusive, of subdivision
27 (a) as follows:

28 (1) For any individual eligible to claim the credit described in
29 subdivision (c) of Section 17054, the Franchise Tax Board shall
30 increase the income amounts described in subdivision (b) and
31 paragraphs (1) to (3), inclusive, of subdivision (a), as adjusted by
32 subdivision (d), by the quotient provided by dividing the credit
33 described in subdivision (c) of Section 17054, as adjusted in
34 subdivision (i) of Section 17054, by 2 percent.

35 (2) For any ~~individual, married couple, or domestic partners~~
36 *individual or spouses* eligible to claim the credit described in
37 subdivision (d) of Section 17054, the Franchise Tax Board shall
38 increase the income amounts described in subdivision (b) or
39 paragraphs (1) to (3), inclusive, of subdivision (a), as adjusted by
40 subdivision (d), by the quotient provided by dividing each credit

1 described in subdivision (d) of Section 17054, as adjusted in
2 subdivision (i) of Section 17054, by the following:

3 (A) If the ~~individual, married couple, or domestic partners~~
4 *individual or spouses* are not eligible to claim the credit allowed
5 in subdivision (c) of Section 17054, 3 percent for the first
6 dependent credit and 4 percent for the second dependent credit, if
7 any.

8 (B) If the ~~individual, married couple, or domestic partners~~
9 *individual or spouses* are eligible to claim the credit allowed in
10 subdivision (c) of Section 17054, 4 percent for the first dependent
11 credit and 5 percent for the second dependent credit, if any.

12 (d) For each taxable year beginning on or after January 1, 1996,
13 the Franchise Tax Board shall recompute the income amounts
14 prescribed in paragraphs (1) to (3), inclusive, of subdivision (a)
15 and in subdivision (b), as follows:

16 (1) The Department of Industrial Relations shall transmit
17 annually to the Franchise Tax Board the percentage change in the
18 California Consumer Price Index for all items from June of the
19 prior calendar year to June of the current calendar year, no later
20 than August 1 of the current calendar year.

21 (2) The Franchise Tax Board shall do both of the following:

22 (A) Compute an inflation adjustment factor by adding 100
23 percent to the percentage change figure that is furnished pursuant
24 to paragraph (1) and dividing the result by 100.

25 (B) Multiply the income amounts for the preceding taxable year
26 by the inflation adjustment factor determined in subparagraph (A)
27 and round off the resulting products to the nearest one dollar (\$1).

28 (e) The changes to subdivision (c) made by the act adding this
29 subdivision shall apply to each taxable year beginning on or after
30 January 1, 1999.

31 SEC. 103. Section 18522 of the Revenue and Taxation Code
32 is amended to read:

33 18522. If an individual has filed a separate return for a taxable
34 year for which a joint return could have been made by him or her
35 and his or her spouse under Section 18521, and the time prescribed
36 for filing the return for that taxable year has expired, that individual
37 and his or her spouse may nevertheless make a joint return for that
38 taxable year, provided a joint federal income tax return is made
39 under the provisions of Section 6013(b) of the Internal Revenue
40 Code. A joint return filed by the ~~married couple~~ *spouses* in that

1 case shall constitute the return of the ~~married couple~~ *spouses* for
2 that taxable year, and all payments, credits, refunds, or other
3 repayments made or allowed with respect to the separate return of
4 either spouse for that taxable year shall be taken into account in
5 determining the extent to which the tax based upon the joint return
6 has been paid.

7 SEC. 104. Section 18530 of the Revenue and Taxation Code
8 is amended to read:

9 18530. Where the amount shown as the tax by the ~~married~~
10 ~~couple~~ *spouses* on a joint return made under Section 18522 exceeds
11 the aggregate of the amounts shown as the tax upon the separate
12 return of each spouse, each of the following shall apply:

13 (a) If any part of the excess is attributable to negligence or
14 intentional disregard of rules and regulations (but without intent
15 to defraud) at the time of the making of the separate return, then
16 20 percent of the total amount of the excess shall be assessed,
17 collected, and paid, in lieu of the ~~20 percent~~ *20-percent* addition
18 to the tax provided in subdivision (a) of Section 19164.

19 (b) If any part of the excess is attributable to fraud with intent
20 to evade tax at the time of the making of the separate return, then
21 75 percent of the total amount of the excess shall be assessed,
22 collected, and paid, in lieu of the ~~75 percent~~ *75-percent* addition
23 to the tax provided in subdivision (b) of Section 19164.

24 SEC. 105. Section 18531.5 of the Revenue and Taxation Code
25 is amended to read:

26 18531.5. For purposes of Section 443 of the Internal Revenue
27 Code, where the spouses have different taxable years because of
28 the death of either spouse, the joint return shall be treated as if the
29 taxable years of both spouses ended on the date of the closing of
30 the surviving spouse's taxable year.

31 SEC. 106. Section 18532 of the Revenue and Taxation Code
32 is amended to read:

33 18532. For the purposes of this article, each of the following
34 shall apply:

35 (a) The status as ~~married or as domestic partners~~ *spouses* of two
36 individuals having taxable years beginning on the same day shall
37 be determined as follows:

38 (1) If both have the same taxable year, then as of the close of
39 that year.

1 (2) If one dies before the close of the taxable year of the other,
2 then as of the time of the death.

3 (b) An individual who is legally separated from his or her spouse
4 ~~or domestic partner~~ under a decree of divorce, termination of
5 registered domestic partnership, or of separate maintenance shall
6 not be considered as married or in a registered domestic
7 partnership.

8 (c) If a joint return is made, the tax shall be computed on the
9 aggregate income and the liability with respect to the tax shall be
10 joint and several.

11 SEC. 107. Section 19006 of the Revenue and Taxation Code
12 is amended to read:

13 19006. (a) The spouse ~~or domestic partner~~ who controls the
14 disposition of or who receives or spends community income as
15 well as the spouse ~~or domestic partner~~ who is taxable on the income
16 is liable for the payment of the taxes imposed by Part 10
17 (commencing with Section 17001) on that income.

18 (b) Whenever a joint return is filed by ~~a married couple or~~
19 ~~domestic partners, spouses~~, the liability for the tax on the aggregate
20 income is joint and several. The liability may be revised by a court
21 in a proceeding for dissolution of the marriage ~~of the married~~
22 ~~couple~~, or for termination of the registered domestic partnership
23 of the ~~domestic partners, spouses~~, provided:

24 (1) The order revising tax liability may not relieve a spouse ~~or~~
25 ~~domestic partner~~ of tax liability on income earned by or subject
26 to the exclusive management and control of the spouse ~~or domestic~~
27 ~~partner, spouse~~. The liability of the spouse ~~or domestic partner~~ for
28 the tax, penalties, and interest due for the taxable year shall be in
29 the same ratio to total tax, penalties, and interest due for the taxable
30 year as the income earned by or subject to the management and
31 control of the spouse ~~or domestic partner~~ is to total gross income
32 reportable on the return.

33 (2) The order revising tax liability:

34 (A) Must separately state the income tax liabilities for the
35 taxable years for which revision of tax liability is granted.

36 (B) Shall not revise a tax liability that has been fully paid prior
37 to the effective date of the order; however, any unpaid amount
38 may be revised.

39 (C) Shall become effective when the Franchise Tax Board is
40 served with or acknowledges receipt of the order.

1 (D) Shall not be effective if the gross income reportable on the
2 return exceeds one hundred fifty thousand dollars (\$150,000) or
3 the amount of tax liability the spouse ~~or domestic partner~~ is relieved
4 of exceeds seven thousand five hundred dollars (\$7,500), unless
5 a tax revision clearance certificate is obtained from the Franchise
6 Tax Board and filed with the court.

7 (c) Notwithstanding subdivisions (a) and (b), whenever a joint
8 return is filed by a ~~married couple or domestic partners~~ *spouses*
9 and the tax liability is not fully paid, that liability, including interest
10 and penalties, may be revised by the Franchise Tax Board as to
11 ~~one spouse or domestic partner.~~ *spouse.*

12 (1) However, the liability shall not be revised:

13 (A) To relieve a spouse ~~or domestic partner~~ of tax liability on
14 income earned by or subject to the exclusive management and
15 control of the ~~spouse or domestic partner.~~ *spouse.* The liability of
16 the spouse ~~or domestic partner~~ for the tax, penalties, and interest
17 due for the taxable year shall be in the same ratio to total tax,
18 penalties, and interest due for the taxable year as the income earned
19 by or subject to the management and control of the spouse ~~or~~
20 ~~domestic partner~~ is to total gross income reportable on the return.

21 (B) To relieve a spouse ~~or domestic partner~~ of liability below
22 the amount actually paid on the liability prior to the granting of
23 relief, including credit from any other taxable year available for
24 application to the liability.

25 (2) The liability may be revised only if the spouse ~~or domestic~~
26 ~~partner~~ whose liability is to be revised establishes that he or she
27 did not know of, and had no reason to know of, the nonpayment
28 at the time the return was filed. For purposes of this paragraph,
29 “reason to know” means whether or not a reasonably prudent
30 person would have had reason to know of the nonpayment.

31 (3) For purposes of this section, the determination of the spouse
32 ~~or domestic partner~~ to whom items of gross income are attributable
33 shall be made without regard to community property laws.

34 (4) The determination of the Franchise Tax Board as to whether
35 the liability is to be revised as to one spouse ~~or domestic partner~~
36 shall be made not less than 30 days after notification of the other
37 spouse ~~or domestic partner~~ and shall be based upon whether, under
38 all of the facts and circumstances surrounding the nonpayment, it
39 would be inequitable to hold the spouse ~~or domestic partner~~
40 requesting revision liable for the nonpayment. Any action taken

1 under this section shall be treated as though it were action on a
2 protest taken under Section 19044 and shall become final upon
3 the expiration of 30 days from the date that notice of the action is
4 mailed to both ~~spouses or domestic partners~~, *spouses*, unless, within
5 that 30-day period, one or both ~~spouses or domestic partners~~ appeal
6 the determination to the board as provided in Section 19045.

7 (5) This subdivision shall apply to all taxable years subject to
8 the provisions of this part, but shall not apply to any taxable year
9 which has been closed by a statute of limitations, *res judicata*, or
10 otherwise.

11 SEC. 108. Section 19035 of the Revenue and Taxation Code
12 is amended to read:

13 19035. In the case of a joint return filed by ~~a married couple~~
14 ~~or domestic partners~~, *spouses*, the notice of proposed deficiency
15 assessment may be a single joint notice, except that if the Franchise
16 Tax Board is notified by either spouse ~~or domestic partner~~ that
17 separate residences have been established, it shall mail to each
18 ~~spouse or domestic partner~~, *spouse*, in lieu of the single joint notice,
19 duplicate originals of the joint notice.

20 SEC. 109. Section 19107 of the Revenue and Taxation Code
21 is amended to read:

22 19107. Where an overpayment is made by any individual for
23 any year, and a deficiency is owing from the spouse ~~or domestic~~
24 ~~partner~~ of the taxpayer for the same year, and both spouses ~~or~~
25 ~~domestic partners~~ notify the Franchise Tax Board in writing prior
26 to the expiration of the time within which credit for the
27 overpayment may be allowed that the overpayment may be credited
28 against the deficiency, no interest shall be assessed on that portion
29 of the deficiency as is extinguished by the credit for the period of
30 time subsequent to the date the overpayment was made.

31 SEC. 110. Section 19110 of the Revenue and Taxation Code
32 is amended to read:

33 19110. (a) When the correction of an erroneous inclusion or
34 deduction of an item or items in the computation of income of a
35 trust, estate, parent, ~~spouse, or domestic partner~~ *or spouse* for any
36 year results in an overpayment for that year by the trust, estate,
37 parent, ~~spouse, or domestic partner~~, *or spouse*, and also results in
38 a deficiency for the same year for a grantor of the trust or
39 beneficiary of the estate or trust, or child of the parent, or spouse
40 ~~or domestic partner~~ of the child, or the spouse ~~or domestic partner~~

1 of the ~~spouse or domestic partner~~, *spouse*, the overpayment, if the
2 period within which credit for the overpayment may be allowed
3 has not expired, shall be credited on the deficiency, if the period
4 within which the deficiency may be proposed has not expired, and
5 the balance, if any, shall be credited or refunded. No interest shall
6 be assessed on the portion of the deficiency as is extinguished by
7 the credit for the period of time subsequent to the date the
8 overpayment was made.

9 (b) When the correction of an erroneous inclusion or deduction
10 of an item or items in the computation of income of a grantor of
11 a trust, beneficiary of an estate or trust, a child, or ~~spouse or~~
12 ~~domestic partner~~ of the child, or a ~~spouse or domestic partner~~ for
13 any year results in an overpayment for that year by the grantor,
14 beneficiary, child, ~~spouse, or domestic partner~~, or *spouse*, and also
15 results in a deficiency for the same year for the grantor's or
16 beneficiary's trust, the beneficiary's estate, the child's parent, or
17 ~~spouse or domestic partner~~ of the child, or the beneficiary's ~~spouse~~
18 ~~or domestic partner~~, *spouse*, the overpayment, if the period within
19 which credit for the overpayment may be allowed has not expired,
20 shall be credited on the deficiency, if the period within which the
21 deficiency may be proposed has not expired, and the balance, if
22 any, shall be credited or refunded. No interest shall be assessed
23 on the portion of the deficiency as is extinguished by the credit
24 for the period of time subsequent to the date the overpayment was
25 made.

26 (c) Subdivisions (a) and (b) are not intended, nor shall they be
27 construed as a limitation on the Franchise Tax Board's right to
28 offset or recoup barred assessments against overpayments.

29 SEC. 111. Section 19701.5 of the Revenue and Taxation Code
30 is amended to read:

31 19701.5. (a) Any person who signs his or her spouse's ~~or~~
32 ~~domestic partner's~~ name on any income tax return, or any schedules
33 or attachments thereto, or who files electronically pursuant to
34 Section 18621.5, without the consent of the ~~spouse or domestic~~
35 ~~partner~~ as provided in subdivision (b), is guilty of a misdemeanor
36 and shall upon conviction be fined an amount not to exceed five
37 thousand dollars (\$5,000) or be imprisoned for a term not to exceed
38 one year, or both, at the discretion of the court, together with costs
39 of investigation and prosecution.

1 (b) Notwithstanding subdivision (a), any person who signs his
 2 or her spouse's ~~or domestic partner's~~ name shall not be guilty of
 3 a misdemeanor when one spouse ~~or domestic partner~~ is physically
 4 unable by reason of disease or injury to sign a joint return, and the
 5 other ~~spouse or domestic partner~~, *spouse*, with the oral consent of
 6 the one who is incapacitated, signs the incapacitated spouse's ~~or~~
 7 ~~domestic partner's~~ name in the proper place on the return followed
 8 by the words "By _____, Spouse (or Husband or ~~Wife~~) ~~or Domestic~~
 9 ~~Partner,~~ *Wife*," and by the signature of the signing spouse ~~or~~
 10 ~~domestic partner~~ in his or her own right, provided that a dated
 11 statement signed by the spouse ~~or domestic partner~~ who is signing
 12 the return is attached to and made a part of the return stating each
 13 of the following:

- 14 (1) The name of the return being filed.
- 15 (2) The taxable year.
- 16 (3) The reason for the inability of the spouse ~~or domestic partner~~
 17 who is incapacitated to sign the return.
- 18 (4) That the spouse ~~or domestic partner~~ who is incapacitated
 19 consented to the signing of the return and that the taxpayer and
 20 his or her agent, if any, are responsible for the return as made and
 21 incur liability for the penalties provided for erroneous, false, or
 22 fraudulent returns.

23 (c) The penalties provided by this section are cumulative and
 24 shall not be construed as restricting any other penalty provided by
 25 law based upon the same facts, including any penalty under Section
 26 470 of the Penal Code. However, an act or omission which is made
 27 punishable in different ways by this section and different provisions
 28 of the Penal Code shall not be punished under more than one
 29 provision.

30 SEC. 112. Section 20542 of the Revenue and Taxation Code
 31 is amended to read:

32 20542. (a) The Franchise Tax Board, pursuant to the provisions
 33 of Article 3 (commencing with Section 20561), of this chapter,
 34 shall provide assistance to the claimant based on a percentage of
 35 the property tax accrued and paid by the claimant on the residential
 36 dwelling as provided in Section 20543 or the statutory property
 37 tax equivalent pursuant to Section 20544. In case of an
 38 owner-claimant, the assistance shall be equal to the applicable
 39 percentage of property taxes paid on the full value of the residential
 40 dwelling up to, and including, thirty-four thousand dollars

1 (\$34,000). No assistance shall be allowed for property taxes paid
2 on that portion of full value of a residential dwelling exceeding
3 thirty-four thousand dollars (\$34,000). No assistance shall be
4 provided if the amount of the assistance claim is five dollars (\$5)
5 or less.

6 (b) For purposes of allowing assistance provided for by this
7 section:

8 (1) (A) Only one owner-claimant from one household each
9 year shall be entitled to assistance under this chapter. When two
10 or more individuals of a household are able to meet the
11 qualifications for an owner-claimant, they may determine who the
12 owner-claimant shall be. If they are unable to agree, the matter
13 shall be referred to the Franchise Tax Board and its decision shall
14 be final.

15 (B) When two or more individuals pay rent for the same
16 premises and each individual meets the qualifications for a
17 renter-claimant, each qualified individual shall be entitled to
18 assistance under this part.

19 For the purposes of this subparagraph, spouses ~~or domestic~~
20 ~~partners~~ residing in the same premises shall be presumed to be one
21 renter.

22 (2) Except as provided in paragraph (3), the right to file a claim
23 shall be personal to the claimant and shall not survive his or her
24 death; however, when a claimant dies after having filed a timely
25 claim, the amount thereof may be disbursed to the surviving spouse
26 ~~or surviving domestic partner~~ and, if no surviving spouse ~~or~~
27 ~~surviving domestic partner~~, *spouse*, to any other member of the
28 household who is a qualified claimant. If there is no surviving
29 ~~spouse, surviving domestic partner, spouse~~ or otherwise qualified
30 claimant, the claim shall be disbursed to any other member of the
31 household. In the event two or more individuals qualify for
32 payment as either an otherwise qualified claimant or a member of
33 the household, they may determine which of them will be paid. If
34 they are unable to agree, the matter shall be referred to the
35 Franchise Tax Board and its decision shall be final.

36 (3) If, after January 1 of the property tax fiscal year for which
37 a claim may be filed, a claimant dies without filing a timely claim,
38 a claim on behalf of such claimant may be filed by the surviving
39 ~~spouse or surviving domestic partner~~ within the filing period
40 prescribed in subdivision (a) or (b) of Section 20563.

1 (4) If an individual postponed taxes for any given property tax
2 fiscal year under Chapter 2 (commencing with Section 20581),
3 Chapter 3 (commencing with Section 20625), Chapter 3.3
4 (commencing with Section 20639), or Chapter 3.5 (commencing
5 with Section 20640), then any claim for assistance under this
6 chapter for the same property tax fiscal year shall be filed by such
7 individual (assuming all other eligibility requirements in this
8 chapter are satisfied) and not an otherwise qualified member of
9 the individual's household.

10 SEC. 113. Section 12.2 is added to the Streets and Highways
11 Code, to read:

12 12.2. "Spouse" includes—~~domestic~~ "*registered domestic*
13 *partner,*" as ~~described in Section 297~~ *required by Section 297.5* of
14 the Family Code.

15 SEC. 114. Section 2804 of the Streets and Highways Code is
16 amended to read:

17 2804. (a) This division does not apply to irrigation districts,
18 irrigation district improvement districts, fire districts, fire protection
19 districts, or public cemetery districts, or to any proceeding
20 otherwise subject to this division when one or more of the
21 following situations exist:

22 (1) The proceedings are undertaken by a district or public
23 corporation within one year of its incorporation.

24 (2) The improvement proceedings are by a chartered city,
25 chartered county, or a county sanitation district which is governed
26 ex officio by the board of supervisors of a chartered county, and
27 the city, county, or district has complied with Section 19 of Article
28 XVI of the California Constitution.

29 (3) All of the owners of more than 60 percent in area of the
30 property subject to assessment for the proposed improvements
31 have signed and filed with the clerk or secretary of the legislative
32 body undertaking the proceedings a written petition for the
33 improvements meeting the requirements of Section 2804.5.

34 (b) As used in this section, "substantially described" means that
35 additional improvements of the same or similar nature may not be
36 provided unless the estimated cost of the improvements does not
37 exceed 10 percent of the estimated cost of the improvements
38 provided in the former report.

39 (c) As used in this section, "owner of land" means only a person
40 who, at the time the petition is filed with the clerk or secretary of

1 the legislative body, appears to be the owner upon the assessor's
2 roll or, in the case of transfers of land, or parts thereof, subsequent
3 to the date upon which the last assessor's roll was prepared, appear
4 to be the owner on the records in the county assessor's office which
5 the county assessor will use to prepare the next assessor's roll. If
6 any person signing the petition appears on the assessor's roll or
7 the records in the county assessor's office as an owner of property
8 as a joint tenant or tenant in common, or as a ~~spouse or domestic~~
9 ~~partner~~, *spouse*, that property shall be counted as if all those
10 persons had signed the petition.

11 SEC. 115. Section 11.2 is added to the Unemployment
12 Insurance Code, to read:

13 11.2. "Spouse" includes ~~domestic~~ "*registered domestic*
14 *partner*," as ~~described in Section 297~~ *required by Section 297.5* of
15 the Family Code.

16 SEC. 116. Section 13003 of the Unemployment Insurance
17 Code is amended to read:

18 13003. (a) Except where the context otherwise requires, the
19 definitions set forth in this chapter, and in addition the definitions
20 and provisions of the Personal Income Tax Law referred to and
21 hereby incorporated by reference as set forth in the following
22 provisions of the Revenue and Taxation Code, shall apply to and
23 govern the construction of this division:

- 24 (1) "Corporation" as defined by Section 17009.
- 25 (2) "Fiduciary" as defined by Section 17006.
- 26 (3) "Fiscal year" as defined by Section 17011.
- 27 (4) "Foreign country" as defined by Section 17019.
- 28 (5) "Franchise Tax Board" as defined by Section 17003.
- 29 (6) "Spouse" as defined by Section 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 11
17 (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~~ *Armed Forces* (Article 3
20 (commencing with 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. 117. Section 12.2 is added to the Vehicle Code, to read:

27 12.2. “Spouse” includes ~~“domestic~~ “*registered domestic*
28 partner,” as ~~described in Section 297~~ *required by Section 297.5* of
29 the Family Code.

30 SEC. 118. Section 12.2 is added to the Water Code, to read:

31 12.2. “Spouse” includes ~~“domestic~~ “*registered domestic*
32 partner,” as ~~described in Section 297~~ *required by Section 297.5* of
33 the Family Code.

34 SEC. 119. Section 12.2 is added to the Welfare and Institutions
35 Code, to read:

36 12.2. “Spouse” includes ~~“domestic~~ “*registered domestic*
37 partner,” as ~~described in Section 297~~ *required by Section 297.5* of
38 the Family Code.

39 SEC. 120. Section 742.16 of the Welfare and Institutions Code
40 is amended to read:

1 742.16. (a) If a minor is found to be a person described in
2 Section 602 *of this code* by reason of the commission of an act
3 prohibited by Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of
4 the Penal Code, and the court does not remove the minor from the
5 physical custody of the parent or guardian, the court as a condition
6 of probation, except in any case in which the court makes a finding
7 and states on the record its reasons why that condition would be
8 inappropriate, shall require the minor to wash, paint, repair, or
9 replace the property defaced, damaged, or destroyed by the minor
10 or otherwise pay restitution to the probation officer of the county
11 for disbursement to the owner or possessor of the property or both.
12 In any case in which the minor is not granted probation or in which
13 the minor's cleanup, repair, or replacement of the property will
14 not return the property to its condition before it was defaced,
15 damaged, or destroyed, the court shall make a finding of the
16 amount of restitution that would be required to fully compensate
17 the owner and possessor of the property for their damages. The
18 court shall order the minor or the minor's estate to pay that
19 restitution to the probation officer of the county for disbursement
20 to the owner or possessor of the property or both, to the extent the
21 court determines that the minor or the minor's estate have the
22 ability to do so, except in any case in which the court makes a
23 finding and states on the record its reasons why full restitution
24 would be inappropriate. If full restitution is found to be
25 inappropriate, the court shall require the minor to perform specified
26 community service, except in any case in which the court makes
27 a finding and states on the record its reasons why that condition
28 would be inappropriate.

29 (b) If a minor is found to be a person described in Section 602
30 *of this code* by reason of the commission of an act prohibited by
31 Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal
32 Code, and the graffiti or other material inscribed by the minor has
33 been removed, or the property defaced by the minor has been
34 repaired or replaced by a public entity that has elected, pursuant
35 to Section 742.14, to have the probation officer of the county
36 recoup its costs through proceedings in accordance with this section
37 and has made cost findings in accordance with subdivision (c) or
38 (d) of Section 742.14, the court shall determine the total cost
39 incurred by the public entity for said removal, repair, or
40 replacement, using, if applicable, the cost findings most recently

1 adopted by the public entity pursuant to subdivision (c) or (d) of
2 Section 742.14. The court shall order the minor or the minor's
3 estate to pay those costs to the probation officer of the county to
4 the extent the court determines that the minor or the minor's estate
5 have the ability to do so.

6 (c) If the minor is found to be a person described in Section 602
7 *of this code* by reason of the commission of an act prohibited by
8 Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal
9 Code, and the minor was identified or apprehended by the law
10 enforcement agency of a city or county that has elected, pursuant
11 to Section 742.14, to have the probation officer of the county
12 recoup its costs through proceedings in accordance with this
13 section, the court shall determine the cost of identifying or
14 apprehending the minor, or both, using, if applicable, the cost
15 findings adopted by the city or county pursuant to subdivision (b)
16 of Section 742.14. The court shall order the minor or the minor's
17 estate to pay those costs to the probation officer of the county to
18 the extent the court determines that the minor or the minor's estate
19 has the ability to do so.

20 (d) If the court determines that the minor or the minor's estate
21 is unable to pay in full the costs and damages determined pursuant
22 to subdivisions (a), (b), and (c), and if the minor's parent or parents
23 have been cited into court pursuant to Section 742.18, the court
24 shall hold a hearing to determine the liability of the minor's parent
25 or parents pursuant to Section 1714.1 of the Civil Code for those
26 costs and damages. Except when the court makes a finding setting
27 forth unusual circumstances in which parental liability would not
28 serve the interests of justice, the court shall order the minor's parent
29 or parents to pay those costs and damages to the probation officer
30 of the county to the extent the court determines that the parent or
31 parents have the ability to pay, if the minor was in the custody or
32 control of the parent or parents at the time he or she committed
33 the act that forms the basis for the finding that the minor is a person
34 described in Section 602. In evaluating the parent's or parents'
35 ability to pay, the court shall take into consideration the family
36 income, the necessary obligations of the family, and the number
37 of persons dependent upon this income.

38 (e) The hearing described in subdivision (d) may be held
39 immediately following the disposition hearing or at a later date,
40 at the option of the court.

1 (f) If the amount of costs and damages sought to be recovered
2 in the hearing pursuant to subdivision (d) is five thousand dollars
3 (\$5,000) or less, the parent or parents may not be represented by
4 counsel and the probation officer of the county shall be represented
5 by his or her nonattorney designee. The court shall conduct that
6 hearing in accordance with Sections 116.510 and 116.520 of the
7 Code of Civil Procedure. Notwithstanding the foregoing, if the
8 court determines that a parent cannot properly present his or her
9 defense, the court may, in its discretion, allow another individual
10 to assist that parent. In addition, a spouse or domestic partner may
11 appear and participate in the hearing on behalf of his or her spouse
12 or domestic partner if the representative's spouse or domestic
13 partner has given his or her consent and the court determines that
14 the interest of justice would be served thereby.

15 (g) If the amount of costs and damages sought to be recovered
16 in the hearing pursuant to subdivision (d) exceeds five thousand
17 dollars (\$5,000), the parent or parents may be represented by
18 counsel of his or her or their own choosing, and the probation
19 officer of the county shall be represented by the district attorney
20 or an attorney or nonattorney designee of the probation officer.
21 The parent or parents shall not be entitled to court-appointed
22 counsel or to counsel compensated at public expense.

23 (h) At the hearing conducted pursuant to subdivision (d), there
24 shall be a presumption affecting the burden of proof that the
25 findings of the court made pursuant to subdivisions (a), (b), and
26 (c) represent the actual damages and costs attributable to the act
27 of the minor that forms the basis of the finding that the minor is a
28 person described in Section 602.

29 (i) If the parent or parents, after having been cited to appear
30 pursuant to Section 742.18, fail to appear as ordered, the court
31 shall order the parent or parents to pay the full amount of the costs
32 and damages determined by the court pursuant to subdivisions (a),
33 (b), and (c).

34 (j) Execution may be issued on an order issued by the court
35 pursuant to this section in the same manner as on a judgment in a
36 civil action, including any balance unpaid at the termination of the
37 court's jurisdiction over the minor.

38 (k) At any time prior to the satisfaction of a judgment entered
39 pursuant to this section, a person against whom the judgment was
40 entered may petition the rendering court to modify or vacate the

1 judgment on the showing of a change in circumstances relating to
2 his or her ability to pay the judgment.

3 (l) For purposes of a hearing conducted pursuant to subdivision
4 (d), the judge of the juvenile court shall have the jurisdiction of a
5 judge of the superior court in a limited civil case, and if the amount
6 of the demand is within the jurisdictional limits stated in Sections
7 116.220 and 116.221 of the Code of Civil Procedure, the judge of
8 the juvenile court shall have the powers of a judge presiding over
9 the small claims court.

10 (m) Nothing in this section shall be construed to limit the
11 authority of a juvenile court to provide conditions of probation.

12 (n) The options available to the court pursuant to subdivisions
13 (a), (b), (c), (d), and (k), to order payment by the minor and his or
14 her parent or parents of less than the full costs described in
15 subdivisions (a), (b), and (c), on grounds of financial inability or
16 for reasons of justice, shall not be available to a superior court in
17 an ordinary civil proceeding pursuant to subdivision (b) of Section
18 1714.1 of the Civil Code, except that in any proceeding pursuant
19 to either subdivision (b) of Section 1714.1 of the Civil Code or
20 this section, the maximum amount that a parent or a minor may
21 be ordered to pay shall not exceed twenty thousand dollars
22 (\$20,000) for each tort of the minor.

23 SEC. 121. Section 7275 of the Welfare and Institutions Code
24 is amended to read:

25 7275. (a) The spouse, ~~domestic partner~~, father, mother, or
26 children of a patient in a state hospital, the estates of these persons,
27 and the guardian or conservator and administrator of the estate of
28 the patient shall cause him or her to be properly and suitably cared
29 for and maintained, and shall pay the costs and charges for
30 transportation to a state institution. The spouse, ~~domestic partner~~,
31 father, mother, or children of a patient in a state hospital and the
32 administrators of their estates, and the estate of the person shall
33 be liable for his or her care, support, and maintenance in a state
34 institution of which he or she is a patient. The liability of these
35 persons and estates shall be a joint and several liability, and the
36 liability shall exist whether the person has become a patient of a
37 state institution pursuant to the provisions of this code or pursuant
38 to the provisions of Sections 1026, 1368, 1369, 1370, and 1372 of
39 the Penal Code.

1 (b) This section does not impose liability for the care of persons
2 with intellectual disabilities in state hospitals.

3 SEC. 122. Section 12003 of the Welfare and Institutions Code
4 is amended to read:

5 12003. For the purposes of this chapter, neither the residence
6 nor domicile of the spouse ~~or domestic partner~~ shall be deemed
7 the residence or domicile of the other, but each may have a separate
8 residence or domicile dependent upon proof of the fact and not on
9 legal presumption.

10 For the purposes of this chapter, a minor child shall be deemed
11 to have resided in the state during any period in which such child
12 has been physically present in the state.

13 SEC. 123. Section 14140 of the Welfare and Institutions Code
14 is amended to read:

15 14140. The following definitions shall apply to the provisions
16 of this article:

17 (a) “Net worth” means:

18 (1) Personal property, which consists of cash, savings accounts,
19 securities, and similar items; notes, mortgages, and deeds of trust;
20 the cash surrender value of life insurance on the life of the applicant
21 or beneficiary, on the life of the spouse, ~~domestic partner~~, or any
22 member of the family, except as provided in Section 11158; motor
23 vehicles, except one which meets the transportation needs of the
24 person or family; any other property or equity other than real estate,
25 except that property specified in subdivisions (1), (2), and (3) of
26 Section 11155.

27 (2) Real property, including any interest in land of more than
28 nominal interest which does not constitute the home of the
29 applicant for aid under this chapter. The home of the applicant
30 shall be exempt from consideration as net worth under this section
31 to the extent of ten thousand dollars (\$10,000) in assessed
32 valuation, as assessed by the county assessor.

33 (3) “Income” which consists of the sum of adjusted gross income
34 as used for purposes of the Federal Income Tax Law.

35 (b) “Family unit” means:

36 (1) In the case of a patient who is not married or in a registered
37 domestic partnership and is under 21 years of age living with his
38 or her parent or parents, the patient and his or her parents.

1 (2) In the case of a patient who is married or in a registered
2 domestic partnership and is under 21 years of age, the patient and
3 his or her ~~spouse or domestic partner~~. *spouse*.

4 (3) In the case of a patient over 21 years of age, the patient, and
5 if married or in a registered domestic partnership, the patient's
6 ~~spouse or domestic partner~~. *spouse*.

7 SEC. 124. Section 18291 of the Welfare and Institutions Code
8 is amended to read:

9 18291. For purposes of this chapter:

10 (a) "Domestic violence" means abuse committed against an
11 adult or a minor who is a spouse, former spouse, ~~domestic partner~~,
12 ~~former domestic partner~~, cohabitant, former cohabitant, or person
13 with whom the suspect has had a child or is having or has had a
14 dating or engagement relationship.

15 (b) "Cohabitant" means two unrelated adult persons living
16 together for a substantial period of time, resulting in some
17 permanency of relationship. Factors that may determine whether
18 persons are cohabiting include, but are not limited to, all of the
19 following:

20 (1) Sexual relations between the parties while sharing the same
21 living quarters.

22 (2) Sharing of income or expenses.

23 (3) Joint use or ownership of property.

24 (4) Whether the parties hold themselves out as spouses.

25 (5) The continuity of the relationship.

26 (6) The length of the relationship.

27 (c) "Domestic violence shelter" means a shelter for domestic
28 violence victims that meets all of the following requirements:

29 (1) Provides shelter in an undisclosed and secured location.

30 (2) Provides staff that meet the requirements set forth in Section
31 1037.1 of the Evidence Code.

32 (3) Meets the requirements set forth in Section 18294.

33 (d) "Undisclosed" means a location that is not advertised or
34 publicized.

35 SEC. 125. It is the intent of the Legislature that the changes
36 made by this act have only technical and nonsubstantive effect.
37 Hence, no change made by this act shall create any new right, duty,
38 or other obligation that did not exist immediately preceding the
39 effective date of this act, or result in the limitation or termination

1 of any right, duty, or other obligation that existed immediately
2 preceding the effective date of this act.

3 SEC. 126. Any section of any act, except for Senate Bill 1171,
4 enacted by the Legislature during the 2016 calendar year that takes
5 effect on or before January 1, 2017, and that amends, amends and
6 rennumbers, adds, repeals and adds, or repeals a section that is
7 amended, amended and renumbered, added, repealed and added,
8 or repealed by this act, shall prevail over this act, whether that act
9 is enacted prior to, or subsequent to, the enactment of this act.

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