

STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

RECOMMENDATION

**Disposition of Estate Without
Administration: Dollar Amounts**

August 2018

California Law Revision Commission
c/o UC Davis School of Law
Davis, CA 95616
www.clrc.ca.gov

NOTE

This report includes an explanatory Comment to each section of the recommended legislation. The Comments are written as if the legislation were already operative, since their primary purpose is to explain the law as it will exist to those who will have occasion to use it after it is operative. The Comments are legislative history and are entitled to substantial weight in construing the statutory provisions. For a discussion of cases addressing the use of Law Revision Commission materials in ascertaining legislative intent, see the Commission's most recent *Annual Report*.

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STATE OF CALIFORNIA

CALIFORNIA LAW REVISION COMMISSION

c/o UC Davis School of Law
Davis, CA 95616

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August 17, 2018

To: The Honorable Edmund G. Brown, Jr.
Governor of California, and
The Legislature of California

The Probate Code provides several options for estates or portions of estates to be conveyed without requiring a full probate proceeding. Many of these provisions that allow disposition of an estate without administration include a dollar limit, authorizing use of the procedure only where the value of the relevant assets is less than the specified amount.

The Commission concluded that, unless the dollar amounts were adjusted to account for inflation, the availability of these procedures would decrease over time due to inflation. This, in turn, could effectively require more estates to be administered in probate.

The Commission believes that these disposition without administration procedures are a useful tool and their availability should be preserved. Therefore, the Commission recommends adjusting the dollar amounts to reflect the cost-of-living changes due to inflation since these amounts were last adjusted. The Commission also recommends that these amounts be adjusted and published administratively triennially (every three years) going forward.

This recommendation was prepared pursuant to Resolution Chapter 150 of the Statutes of 2016.

Respectfully submitted,

Thomas Hallinan
Chairperson

DISPOSITION OF ESTATE WITHOUT ADMINISTRATION: DOLLAR AMOUNTS

BACKGROUND

The Probate Code contains a number of provisions that permit an estate or a portion of an estate to be collected without administration (or with substantially simplified administration). Some of these procedures are limited to estates or assets below a specified dollar amount.

These procedures are helpful to heirs and beneficiaries of small estates, as the procedures make it possible to avoid the delays and costs associated with probate administration.¹ In addition, these procedures lessen the burden on courts and allow judicial resources to be directed to matters requiring greater judicial oversight.²

The Commission studied the dollar limits for these procedures to determine whether those dollar limits need to be adjusted.

SCOPE OF THE ISSUE

The Commission's study of this topic focused on procedures that permit collection of an estate or assets of a decedent without administration or with substantially simplified administration that are subject to a maximum dollar limit. In particular, the Commission focused on the following provisions of the Probate Code:

- *Small Estate Set-Aside* (Sections 6600-6615). These provisions allow the decedent's spouse and/or minor children to petition the court to set the decedent's estate aside for them. The procedure is only applicable when the value of the estate (subject to specified exclusions³) does not exceed \$20,000.

1. See Senate Committee on Judiciary Analysis of AB 1305 (June 6, 2011), p. 4.

2. *Id.*

3. See Prob. Code §§ 6602, 6609.

- *Affidavit Procedure for Collection or Transfer of Personal Property* (Sections 13100-13116). These provisions permit a decedent's successor⁴ to collect certain property without administration, when the gross value of the decedent's real and personal property in this state does not exceed \$150,000 (subject to Section 13050, described below).
- *Transfer of Real Property Without Administration* (Sections 13150-13158). Under these provisions, a court may order the transfer of real property to a decedent's successor⁵ if the gross value of the decedent's real and personal property in this state does not exceed \$150,000 (subject to Section 13050, described below).
- *Affidavit Procedure for Real Property of Small Value* (Sections 13200-13210). These provisions allow a decedent's successor⁶ to record a court-certified affidavit, to transfer title to the decedent's real property to the successor. The provisions only apply if the gross value of all real property in the decedent's estate located in California does not exceed \$50,000 (subject to Section 13050, described below).
- *Collection by Affidavit of Compensation Owed Deceased Spouse* (Sections 13600-13606). These provisions allow a decedent's surviving spouse to collect salary or other compensation owed by an employer for personal services of the deceased spouse, of \$15,000 or less.

Probate Code Section 13050 provides a rule for calculating the value of the decedent's property, which is used to determine the availability of certain procedures described above. In that

4. See *id.* § 13006.

5. *Id.*

6. *Id.*

calculation, Section 13050(c)(2) excludes up to \$15,000 of unpaid compensation owed to the decedent.

This recommendation addresses only the dollar amounts noted above.

This recommendation does not address and the Commission takes no position on the suitability of dollar amounts in other provisions of the Probate Code.

PROBLEM

These procedures for simplified administration and disposition of administration are subject to dollar limits, as indicated above. These dollar limits serve an important function by balancing the need for judicial oversight with the need for judicial economy and the avoidance of unnecessary administration.⁷ The dollar limits represent a considered choice in which the Legislature struck a balance between these important, competing policy concerns.

Over time, changes in the cost of living could shift the policy balance struck by the Legislature. As the cost of living increases, the purchasing power of these dollar limits will be lower. Fewer estates and assets will qualify to use these procedures and would, instead, require administration in a full probate proceeding. As such, “[t]he Legislature has regularly reemphasized the importance of maintaining this balance by adjusting the applicable limits regularly over time.”⁸

RECOMMENDATION

The Commission recommends that the dollar amounts contained in Chapter 6 (commencing with Section 6600) of Part 3 of Division 6 and Division 8 (commencing with 13000) of the

7. Senate Committee on Judiciary Analysis of AB 1305 (June 6, 2011), pp. 4-5.

8. *Id* at 5.

Probate Code be adjusted to reflect the cost-of-living increases since these amounts were previously changed.⁹

In addition, the Commission recommends that an automatic cost-of-living adjustment mechanism be added to the Probate Code to provide for periodic administrative adjustment of the dollar amounts and publication of those adjusted amounts going forward.¹⁰ This automatic adjustment mechanism (proposed Probate Code Section 890) is modeled after Code of Civil Procedure Section 703.150, which provides for automatic adjustment of the dollar amounts for exemptions from the enforcement of money judgments.

As with Code of Civil Procedure Section 703.150, proposed Probate Code Section 890 would assign the Judicial Council the task of adjusting the dollar amounts and publishing those adjusted amounts.

Proposed Probate Code Section 890 uses the same triennial cycle for adjusting the relevant dollar amounts as Code of Civil Procedure Section 703.150. Using the same triennial cycle (once every three years, as specified) would appear to minimize the administrative burden of performing these adjustments for the different statutory provisions.

RELATED TECHNICAL CHANGES

The Commission also recommends making the following related technical changes:

9. The Commission considered which cost-of-living index to use for calculating the adjustment amounts: either the United States Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (USBLS Index) or the California Consumer Price Index (CCPI). The Commission selected the USBLS Index because this index has been used recently for updating dollar values in the Probate Code. See CLRC Minutes (Dec. 2017), p. 15; CLRC Staff Memorandum 2017-58, pp. 5-7.

10. See proposed Prob. Code § 890.

- Amend Sections 13101, 13152, 13200, and 13601, which prescribe the contents of documents to be used to collect assets under different procedures at issue in this recommendation. These sections are amended to ensure that the adjusted dollar amounts are used in the forms, as appropriate, and the list of adjusted dollar amounts, prepared by Judicial Council, is attached to the relevant form.
- Repeal Section 13600(e), which provides a cost-of-living adjustment of the dollar limit for collection of unpaid compensation by a surviving spouse. That provision does not assign responsibility for making the adjustment. Nor does it provide a mechanism for publication of the adjusted amount. The relevant dollar amounts will now be subject to adjustment and publication under proposed Probate Code Section 890.
- Amend Sections 13601 and 13602 to conform to Section 13600(d), which specifies that a surviving spouse of a deceased firefighter or public safety officer is exempt from the dollar limit for collection of unpaid compensation.¹¹

The Commission also proposes miscellaneous technical changes to conform to standard drafting practices, as indicated in the proposed legislation.

11. See 2002 Cal. Stat. ch. 733, § 2.

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PROPOSED LEGISLATION

Prob. Code § 890 (added). Periodic adjustment of dollar amounts

SECTION 1. Part 21 (commencing with Section 890) is added to Division 2 of the Probate Code, to read:

PART 21. PERIODIC ADJUSTMENT OF DOLLAR AMOUNTS

§ 890. Periodic adjustment of dollar amounts

890. (a) On April 1, 2022, and at each three-year interval ending on April 1 thereafter, the dollar amounts specified in Chapter 6 (commencing with Section 6600) of Part 3 of Division 6 and in Division 8 (commencing with Section 13000) in effect immediately before that date shall be adjusted as provided in subdivision (b).

(b) The Judicial Council shall determine the amount of the adjustment based on the change in the United States city average of the “Consumer Price Index for All Urban Consumers,” as published by the United States Bureau of Labor Statistics, from the December that is 40 months prior to the adjustment to the December immediately preceding the adjustment, with each adjusted amount rounded to the nearest twenty-five dollars (\$25).

(c) Beginning April 1, 2022, the Judicial Council shall, after adjusting the amounts as directed in subdivision (b), publish a list of the current dollar amounts for the provisions identified in subdivision (a), together with the date of the next scheduled adjustment.

(d) Adjustments made under subdivision (a) do not apply when the decedent’s death preceded the date of adjustment.

Comment. Section 890 is comparable to Code of Civil Procedure Section 703.150. It provides for periodic cost-of-living adjustments for dollar amounts contained in certain provisions of the Probate Code.

Prob. Code § 6602 (amended). Petition to set aside estate

SEC. 2. Section 6602 of the Probate Code is amended to read:

6602. A petition may be filed under this chapter requesting an order setting aside the decedent's estate to the decedent's surviving spouse and minor children, or one or more of them, as provided in this chapter, if the net value of the decedent's estate, over and above all liens and encumbrances at the date of death and over and above the value of any probate homestead interest set apart out of the decedent's estate under Section 6520, does not exceed ~~twenty thousand dollars (\$20,000)~~ eighty-five thousand nine hundred dollars (\$85,900), as adjusted periodically in accordance with Section 890.

Comment. Section 6602 is amended to adjust the dollar amount contained in this section. The adjusted amount reflects cost-of-living increases since the amount was last changed. See 1976 Cal. Stat. ch. 1028, § 2 (amending former Prob. Code § 640, which was the predecessor to this section); see also 1986 Cal. Stat. ch. 783 §§ 9, 23; *Recommendation Relating to Small Estate Set-Aside*, 18 Cal. L. Revision Comm'n Reports 1101 (1986). The dollar amount is subject to periodic cost-of-living adjustments going forward. See Section 890.

Prob. Code § 6609 (amended). Court order to set aside estate

SEC. 3. Section 6609 of the Probate Code is amended to read:

6609. (a) If the court determines that the net value of the decedent's estate, over and above all liens and encumbrances at the date of death of the decedent and over and above the value of any probate homestead interest set apart out of the decedent's estate under Section 6520, does not exceed ~~twenty thousand dollars (\$20,000)~~ eighty-five thousand nine hundred dollars (\$85,900), as adjusted periodically in accordance with Section 890, as of the date of the decedent's death, the court shall make an order under this section unless the court determines that making an order under this section would be inequitable under the circumstances of the particular case.

(b) In determining whether to make an order under this section, the court shall consider the needs of the surviving spouse and minor children, the liens and encumbrances on the property of the decedent's estate, the claims of creditors, the needs of the heirs or

devises of the decedent, the intent of the decedent with respect to the property in the estate and the estate plan of the decedent as expressed in inter vivos and testamentary transfers or by other means, and any other relevant considerations. If the surviving spouse has remarried at the time the petition is heard, it shall be presumed that the needs of the surviving spouse do not justify the setting aside of the small estate, or any portion thereof, to the surviving spouse. This presumption is a presumption affecting the burden of proof.

(c) Subject to subdivision (d), if the court makes an order under this section, the court shall assign the whole of the decedent's estate, subject to all liens and encumbrances on property in the estate at the date of the decedent's death, to the surviving spouse and the minor children of the decedent, or any one or more of them.

(d) If there are any liabilities for expenses of the last illness, funeral charges, or expenses of administration that are unpaid at the time the court makes an order under this section, the court shall make ~~such orders as are necessary so that~~ the necessary orders for payment of those unpaid liabilities ~~are paid~~.

(e) Title to property in the decedent's estate vests absolutely in the surviving spouse, minor children, or any or all of them, as provided in the order, subject to all liens and encumbrances on property in the estate at the date of the decedent's death, and there shall be no further proceedings in the administration of the decedent's estate unless additional property in the decedent's estate is discovered.

Comment. Section 6609 is amended to adjust the dollar amount contained in this section. The adjusted amount reflects cost-of-living increases since the amount was last changed. See 1976 Cal. Stat. ch. 1028, § 3 (amending former Prob. Code § 645, which was the predecessor to this section); see also 1986 Cal. Stat. ch. 783 §§ 9, 23; *Recommendation Relating to Small Estate Set-Aside*, 18 Cal. L. Revision Comm'n Reports 1101 (1986). The dollar amount is subject to periodic cost-of-living adjustments going forward. See Section 890.

Subdivision (d) of Section 6609 is amended to make technical changes.

Prob. Code § 13050 (amended). Exclusions in determining property or estate of decedent or its value

SEC. 4. Section 13050 of the Probate Code is amended to read:
13050. (a) For the purposes of this part:

(1) Any property or interest or lien thereon ~~which~~ that, at the time of the decedent's death, was held by the decedent as a joint tenant, or in which the decedent had a life or other interest terminable upon the decedent's death, or ~~which~~ that was held by the decedent and passed to the decedent's surviving spouse pursuant to Section 13500, shall be excluded in determining the property or estate of the decedent or its value. This excluded property shall include, but not be limited to, property in a trust revocable by the decedent during ~~his or her~~ the decedent's lifetime.

(2) A multiple-party account to which the decedent was a party at the time of the decedent's death shall be excluded in determining the property or estate of the decedent or its value, whether or not all or a portion of the sums on deposit are community property, to the extent that the sums on deposit belong after the death of the decedent to a surviving party, P.O.D. payee, or beneficiary. For the purposes of this paragraph, the terms "multiple-party account," "party," "P.O.D. payee," and "beneficiary" are defined in Article 2 (commencing with Section 5120) of Chapter 1 of Part 2 of Division 5.

(b) For the purposes of this part, all of the following property shall be excluded in determining the property or estate of the decedent or its value:

(1) Any vehicle registered under Division 3 (commencing with Section 4000) of the Vehicle Code or titled under Division 16.5 (commencing with Section 38000) of the Vehicle Code.

(2) Any vessel numbered under Division 3.5 (commencing with Section 9840) of the Vehicle Code.

(3) Any manufactured home, mobilehome, commercial coach, truck camper, or floating home registered under Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code.

(c) For the purposes of this part, the value of the following property shall be excluded in determining the value of the decedent's property in this state:

(1) Any amounts due to the decedent for services in the Armed Forces of the United States.

(2) The amount, not exceeding ~~fifteen thousand dollars (\$15,000)~~ sixteen thousand six hundred twenty-five dollars (\$16,625), as adjusted periodically in accordance with Section 890, of salary or other compensation, including compensation for unused vacation, owing to the decedent for personal services from any employment.

Comment. Section 13050 is amended to adjust the dollar amount contained in this section. The adjusted amount reflects cost-of-living increases since the amount was last changed. See 2011 Cal. Stat. ch. 117, § 3. The dollar amount is subject to periodic cost-of-living adjustments going forward. See Section 890.

Paragraph (a)(1) of Section 13050 is amended to make technical changes.

Prob. Code § 13100 (amended). Collection or transfer of personal property without probate

SEC. 5. Section 13100 of the Probate Code is amended to read:

13100. Excluding the property described in Section 13050, if the gross value of the decedent's real and personal property in this state does not exceed ~~one hundred fifty thousand dollars (\$150,000)~~ one hundred sixty-six thousand two hundred fifty dollars (\$166,250), as adjusted periodically in accordance with Section 890, and if 40 days have elapsed since the death of the decedent, the successor of the decedent may, without procuring letters of administration or awaiting probate of the will, do any of the following with respect to one or more particular items of property:

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

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

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

Comment. Section 13100 is amended to adjust the dollar amount contained in this section. The adjusted amount reflects cost-of-living increases since the amount was last changed. See 2011 Cal. Stat. ch. 117, § 4. This dollar amount is subject to periodic cost-of-living adjustments going forward. See Section 890.

Prob. Code § 13101 (amended). Contents of affidavit or declaration to collect or transfer personal property without probate

SEC. 6. Section 13101 of the Probate Code is amended to read:

13101. (a) To collect money, receive tangible personal property, or have evidences of a debt, obligation, interest, right, security, or chose in action transferred under this chapter, an affidavit or a declaration under penalty of perjury under the laws of this state shall be furnished to the holder of the decedent's property stating all of the following:

(1) The decedent's name.

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

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

(4) Either of the following, as appropriate:

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

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

(5) "The current gross fair market value of the decedent's real and personal property in California, excluding the property described in Section 13050 of the California Probate Code, does not exceed ~~one hundred fifty thousand dollars (\$150,000)~~ [Insert dollar amount specified in subdivision (g) of Section 13101 of the California Probate Code]."

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

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

(8) Either of the following, as appropriate:

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

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

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

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

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

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

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

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

(e) If the decedent's personal representative has consented to the payment, transfer, or delivery of the described property to the affiant or declarant, a copy of the consent and of the personal

representative's letters shall be attached to the affidavit or declaration.

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

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

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

Comment. Paragraph (a)(5) of Section 13101 is amended to adjust the dollar amount, as set forth in subdivision (g).

Subdivision (f) is added to require that, after the dollar amounts are adjusted, the published adjusted dollar amounts be attached to the affidavit or declaration.

Paragraph (g)(1) is added to adjust the amount to reflect cost-of-living increases since the amount was last changed. See 2011 Cal. Stat. ch. 117, § 5. Paragraph (g)(2) is added to clarify that this dollar amount is subject to periodic cost-of-living adjustments going forward. See Section 890.

Prob. Code § 13151 (amended). Petition for order determining succession to real property

SEC. 7. Section 13151 of the Probate Code is amended to read:

13151. Exclusive of the property described in Section 13050, if a decedent dies leaving real property in this state and the gross value of the decedent's real and personal property in this state does not exceed ~~one hundred fifty thousand dollars (\$150,000)~~ one hundred sixty-six thousand two hundred fifty dollars (\$166,250), as adjusted periodically in accordance with Section 890, and 40 days have elapsed since the death of the decedent, the successor of the decedent to an interest in a particular item of property that is real property, without procuring letters of administration or awaiting the probate of the will, may file a petition in the superior court of

the county in which the estate of the decedent may be administered requesting a court order determining that the petitioner has succeeded to that real property. A petition under this chapter may include an additional request that the court make an order determining that the petitioner has succeeded to personal property described in the petition.

Comment. Section 13151 is amended to adjust the dollar amount contained in this section. The adjusted amount reflects cost-of-living increases since the amount was last changed. See 2011 Cal. Stat. ch. 117, § 6. The dollar amount is subject to periodic cost-of-living adjustments going forward. See Section 890.

Prob. Code § 13152 (amended). Contents of petition for order determining succession to real property

SEC. 8. Section 13152 of the Probate Code is amended to read:

13152. (a) The petition shall be verified by each petitioner, shall contain a request that the court make an order under this chapter determining that the property described in the petition is property passing to the petitioner, and shall state all of the following:

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

(2) The gross value of the decedent's real and personal property in this state, excluding the property described in Section 13050, as shown by the inventory and appraisal attached to the petition, does not exceed ~~one hundred fifty thousand dollars (\$150,000)~~ the dollar amount specified in subdivision (f).

(3) A description of the particular item of real property in this state ~~which~~ that the petitioner alleges is property of the decedent passing to the petitioner, and a description of the personal property ~~which~~ that the petitioner alleges is property of the decedent passing to the petitioner if the requested order also is to include a determination that the described personal property is property passing to the petitioner.

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

(5) Either of the following, as appropriate:

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

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

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

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

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

(b) ~~There shall be attached to the petition an~~ An inventory and appraisal in the form set forth in Section 8802 of the decedent's real and personal property in this state, excluding the property described in Section 13050, shall be attached to the petition. The appraisal shall be made by a probate referee selected by the petitioner from those probate referees appointed by the Controller under Section 400 to appraise property in the county where the real property is located. The appraisal shall be made as provided in Part 3 (commencing with Section 8800) of Division 7. The petitioner may appraise the assets ~~which~~ that a personal representative could appraise under Section 8901.

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

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

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

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

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

Comment. Paragraph (a)(2) of Section 13152 is amended to adjust the dollar amount, as set forth in subdivision (f).

Subdivision (b) is amended to make technical changes.

Subdivision (e) is added to require that, after the dollar amounts are adjusted, the published adjusted dollar amounts be attached to the petition.

Paragraph (f)(1) is added to adjust the amount to reflect cost-of-living increases since the amount was last changed. See 2011 Cal. Stat. ch. 117, § 5. Paragraph (f)(2) is added to clarify that this dollar amount is subject to periodic cost-of-living adjustments going forward. See Section 890.

Prob. Code § 13154 (amended). Court order determining succession to real property

SEC. 9. Section 13154 of the Probate Code is amended to read:

13154. (a) If the court makes the determinations required under subdivision (b), the court shall issue an order determining (1) that real property, to be described in the order, of the decedent is property passing to the petitioners and the specific property interest of each petitioner in the described property and (2) if the petition so requests, that personal property, to be described in the order, of the decedent is property passing to the petitioners and the specific property interest of each petitioner in the described property.

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

(1) The gross value of the decedent's real and personal property in this state, excluding the property described in Section 13050, does not exceed ~~one hundred fifty thousand dollars (\$150,000)~~ one hundred sixty-six thousand two hundred fifty dollars (\$166,250), as adjusted periodically in accordance with Section 890.

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

(3) Whichever of the following is appropriate:

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

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

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

(c) If the petition has attached an inventory and appraisal that satisfies the requirements of subdivision (b) of Section 13152, the determination required by paragraph (1) of subdivision (b) of this section shall be made on the basis of the verified petition and the attached inventory and appraisal, unless evidence is offered by a person opposing the petition that the gross value of the decedent's real and personal property in this state, excluding the property described in Section 13050, exceeds ~~one hundred fifty thousand dollars (\$150,000)~~ one hundred sixty-six thousand two hundred fifty dollars (\$166,250), as adjusted periodically in accordance with Section 890.

Comment. Section 13154 is amended to adjust the dollar amount contained in this section. The adjusted amount reflects cost-of-living increases since the amount was last changed. See 2011 Cal. Stat. ch. 117, § 8. The dollar amount is subject to periodic cost-of-living adjustments going forward. See Section 890.

Prob. Code § 13200 (amended). Contents of affidavit for collection of real property of small value

SEC. 10. Section 13200 of the Probate Code is amended to read:

13200. (a) No sooner than six months from the death of a decedent, a person or persons claiming as successor of the decedent to a particular item of property that is real property may file in the superior court in the county in which the decedent was domiciled at the time of death, or if the decedent was not domiciled in this state at the time of death, then in any county in which real property of the decedent is located, an affidavit in the form prescribed by the Judicial Council pursuant to Section 1001 stating all of the following:

(1) The name of the decedent.

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

(3) A legal description of the real property and the interest of the decedent therein.

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

(5) "The gross value of all real property in the decedent's estate located in California, as shown by the inventory and appraisal attached to this affidavit, excluding the real property described in Section 13050 of the California Probate Code, does not exceed ~~fifty thousand dollars (\$50,000)~~ [Insert dollar amount specified in subdivision (h)]."

(6) "At least six months have elapsed since the death of the decedent as shown in a certified copy of decedent's death certificate attached to this affidavit."

(7) Either of the following, as appropriate:

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

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

(8) "Funeral expenses, expenses of last illness, and all unsecured debts of the decedent have been paid."

(9) "The affiant is the successor of the decedent (as defined in Section 13006 of the Probate Code) and to the decedent's interest in the described property, and no other person has a superior right to the interest of the decedent in the described property."

(10) “The affiant declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.”

(b) For each person executing the affidavit, the affidavit shall contain a notary public’s certificate of acknowledgment identifying the person.

(c) ~~There shall be attached to the affidavit an~~ An inventory and appraisal of the decedent’s real property in this state, excluding the real property described in Section 13050, shall be attached to the affidavit. The inventory and appraisal of the real property shall be made as provided in Part 3 (commencing with Section 8800) of Division 7. The appraisal shall be made by a probate referee selected by the affiant from those probate referees appointed by the Controller under Section 400 to appraise property in the county where the real property is located.

(d) If the affiant claims under the decedent’s will and no estate proceeding is pending or has been conducted in California, a copy of the will shall be attached to the affidavit.

(e) A certified copy of the decedent’s death certificate shall be attached to the affidavit. If the decedent’s personal representative has consented to the use of the procedure provided by this chapter, a copy of the consent and of the personal representative’s letters shall be attached to the affidavit.

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

(g) The affiant shall deliver pursuant to Section 1215 a copy of the affidavit and attachments to any person identified in paragraph (4) of subdivision (a).

(h)(1) When the decedent dies prior to April 1, 2022, the dollar amount for paragraph (5) of subdivision (a) is fifty-five thousand four hundred twenty-five (\$55,425).

(2) When the decedent dies on or after April 1, 2022, the dollar amount for paragraph (5) of subdivision (a) is the adjusted dollar

amount, published in accordance with subdivision (c) of Section 890, in effect on the date of the decedent's death.

Comment. Paragraph (a)(5) of Section 13200 is amended to adjust the dollar amount, as set forth in subdivision (h).

Subdivision (c) is amended to make technical changes.

Subdivision (f) is added to require that, after the dollar amounts are adjusted, the published adjusted dollar amounts be attached to the affidavit.

Paragraph (h)(1) is added to adjust the amount to reflect cost-of-living increases since the amount was last changed. See 2011 Cal. Stat. ch. 117, § 9. Paragraph (h)(2) is added to clarify that this dollar amount is subject to periodic cost-of-living adjustments going forward. See Section 890.

Prob. Code § 13600 (amended). Authority to collect salary or other compensation

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

13600. (a) At any time after a spouse dies, the surviving spouse or the guardian or conservator of the estate of the surviving spouse may, without procuring letters of administration or awaiting probate of the will, collect salary or other compensation owed by an employer for personal services of the deceased spouse, including compensation for unused vacation, not in excess of ~~fifteen thousand dollars (\$15,000)~~ sixteen thousand six hundred twenty-five dollars (\$16,625), as adjusted periodically in accordance with Section 890, net.

(b) Not more than ~~fifteen thousand dollars (\$15,000)~~ sixteen thousand six hundred twenty-five dollars (\$16,625), as adjusted periodically in accordance with Section 890, net in the aggregate may be collected by or for the surviving spouse under this chapter from all of the employers of the decedent.

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

(d) The ~~fifteen thousand dollars (\$15,000) net limitation dollar limit~~ set forth in subdivisions (a) and (b) does not apply to the surviving spouse or the guardian or conservator of the estate of the

surviving spouse of a firefighter or peace officer described in subdivision (a) of Section 22820 of the Government Code.

~~(e) On January 1, 2003, and on January 1 of each year thereafter, the maximum net amount of salary or compensation payable under subdivisions (a) and (b) to the surviving spouse or the guardian or conservator of the estate of the surviving spouse may be adjusted to reflect any increase in the cost of living occurring after January 1 of the immediately preceding year. The United States city average of the "Consumer Price Index for All Urban Consumers," as published by the United States Bureau of Labor Statistics, shall be used as the basis for determining the changes in the cost of living. The cost-of-living increase shall equal or exceed 1 percent before any adjustment is made. The net amount payable may not be decreased as a result of the cost-of-living adjustment.~~

Comment. Section 13600 is amended to adjust the dollar amount contained in this section. The adjusted amount reflects cost-of-living increases since the amount was last changed. See 2011 Cal. Stat. ch. 117, § 10. The dollar amount is subject to periodic cost-of-living adjustments going forward. See Section 890.

Subdivision (d) is amended to make a technical change.

Subdivision (e) is repealed. The dollar amounts in this section will be subject to periodic cost-of-living adjustments going forward. See Section 890.

Prob. Code § 13601 (amended). Contents of affidavit or declaration and proof of identity to collect salary or other compensation

SEC. 12. Section 13601 of the Probate Code is amended to read:

13601. (a) To collect salary or other compensation under this chapter, an affidavit or a declaration under penalty of perjury under the laws of this state shall be furnished to the employer of the deceased spouse stating all of the following:

- (1) The name of the decedent.
- (2) The date and place of the decedent's death.
- (3) Either of the following, as appropriate:

(A) "The affiant or declarant is the surviving spouse of the decedent."

(B) “The affiant or declarant is the guardian or conservator of the estate of the surviving spouse of the decedent.”

(4) “The surviving spouse of the decedent is entitled to the earnings of the decedent under the decedent’s will or by intestate succession and no one else has a superior right to the earnings.”

(5) “No proceeding is now being or has been conducted in California for administration of the decedent’s estate.”

(6) “Sections 13600 to 13605, inclusive, of the California Probate Code require that the earnings of the decedent, including compensation for unused vacation, not in excess of ~~fifteen thousand dollars (\$15,000)~~ [Insert dollar amount specified in subdivision (e) of Section 13601 of the California Probate Code] net, be paid promptly to the affiant or declarant.”

(7) “Neither the surviving spouse, nor anyone acting on behalf of the surviving spouse, has a pending request to collect compensation owed by another employer for personal services of the decedent under Sections 13600 to 13605, inclusive, of the California Probate Code.”

(8) “Neither the surviving spouse, nor anyone acting on behalf of the surviving spouse, has collected any compensation owed by an employer for personal services of the decedent under Sections 13600 to 13605, inclusive, of the California Probate Code except the sum of ____ dollars (\$____) ~~which that~~ was collected from ____.”

(9) “The affiant or declarant requests that ~~he or she~~ the affiant or declarant be paid the salary or other compensation owed by you for personal services of the decedent, including compensation for unused vacation, not to exceed ~~fifteen thousand dollars (\$15,000)~~ [Insert dollar amount specified in subdivision (e) of Section 13601 of the California Probate Code] net, less the amount of ____ dollars (\$____) ~~which that~~ was previously collected.”

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

(b) Where the decedent is a firefighter or peace officer described in subdivision (a) of Section 22820 of the Government Code, the

affidavit or declaration need not include the content specified in paragraphs (6) to (9), inclusive, of subdivision (a). The affidavit shall instead include the following statements:

(1) “The decedent was a firefighter or peace officer described in subdivision (a) of Section 22820 of the Government Code. Sections 13600 to 13605, inclusive, of the California Probate Code require that the earnings of the decedent, including compensation for unused vacation, be paid promptly to the affiant or declarant.”

(2) “The affiant or declarant requests to be paid the salary or other compensation owed by you for personal services of the decedent, including compensation for unused vacation.”

~~(b)~~ (c) Reasonable proof of the identity of the surviving spouse shall be provided to the employer. If a guardian or conservator is acting for the surviving spouse, reasonable proof of the identity of the guardian or conservator shall also be provided to the employer. Proof of identity that is sufficient under Section 13104 is sufficient proof of identity for the purposes of this subdivision.

~~(e)~~ (d) If a person presenting the affidavit or declaration is a person claiming to be the guardian or conservator of the estate of the surviving spouse, the employer shall be provided with reasonable proof, satisfactory to the employer, of the appointment of the person to act as guardian or conservator of the estate of the surviving spouse.

(e)(1) When the decedent dies prior to April 1, 2022, the dollar amount for paragraphs (6) and (9) of subdivision (a) is sixteen thousand six hundred twenty-five dollars (\$16,625).

(2) When the decedent dies on or after April 1, 2022, the dollar amount for paragraphs (6) and (9) of subdivision (a) is the adjusted dollar amount, published in accordance with subdivision (c) of Section 890, in effect on the date of the decedent’s death. The affiant or declarant shall attach the list of adjusted dollar amounts, published in accordance with subdivision (c) of Section 890, in effect on the date of the decedent’s death to the affidavit or declaration.

Comment. Paragraphs (a)(6) and (a)(9) of Section 13601 are amended to adjust the dollar amount, as set forth in subdivision (e).

Subdivision (b) is added to clarify that the affidavit or declaration of a surviving spouse (or guardian or conservator of the estate of a surviving spouse, if applicable) of a firefighter or peace officer described in Government Code Section 22820(a) need not include provisions related to the dollar limit set forth in Section 13600(a) and (b). This change is made to conform to the effect of Section 13600(d).

Paragraph (e)(1) is added to adjust the amount to reflect cost-of-living increases since the amount was last changed. See 2011 Cal. Stat. ch. 117, § 11. Paragraph (e)(2) is added to clarify that this dollar amount is subject to periodic cost-of-living adjustments going forward. See Section 890. Paragraph (e)(2) also requires that, after the dollar amounts are adjusted, the published adjusted dollar amounts be attached to the affidavit or declaration.

Prob. Code § 13602 (amended). Payment of salary or other compensation by employer

SEC. 13. Section 13602 of the Probate Code is amended to read:

13602. If the requirements of Section 13600 are satisfied, the employer to whom the affidavit or declaration is presented shall promptly pay the earnings of the decedent, including compensation for unused vacation, ~~not in excess of fifteen thousand dollars (\$15,000) net~~ as provided in Section 13600, to the person presenting the affidavit or declaration.

Comment. Section 13602 is amended to clarify that the employer's obligation to pay the person presenting the affidavit or declaration is subject to any applicable limitation set forth in Section 13600. This technical change is made to conform to the effect of Section 13600(d).
