



Judicial Council of California

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Subject Text

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File #: 16-183, Version: 1

Title

Probate: Decedents' Estate Proceedings and a Substitute for Those Proceedings (Action Required)

Summary

The Probate and Mental Health Advisory Committee proposes revising two forms. One form commences a decedent estate proceeding; the other form is used to convey title to a decedent's real and connected personal property when an estate proceeding is not required. The Petition for Probate would be revised to inquire whether a decedent was a citizen of a foreign country, whether the original of the decedent's will or a codicil offered for probate has been lost, and whether the proposed appointment of a personal representative is the appointment of a successor in that office. The *Petition to Determine Succession to Real Property (Estates of \$150,000 or Less)* would be revised to require the petitioner to state facts showing the character of the subject property as separate, community, or quasi-community if his or her claim to the property is based on inheritance. These revisions will ensure that the additional information requested by these changes will be provided by the petitioners in both of these proceedings.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2017:

1. Revise the *Petition for Probate* (form DE-111) to:
 - a. Ask the petitioner whether the decedent was a citizen of a country other than the United States, and if so, to identify the country;
 - b. Require the petitioner to disclose that the original of the will or a codicil offered for probate has been lost, and if so, to attach to the petition a copy of the lost document or a written statement of its dispositive provisions; and state reasons why the statutory presumption of the testator's intentional destruction of the document does not apply or has been overcome; and
 - c. Ask the petitioner if the personal representative proposed for appointment in the petition would be a successor; and
2. Revise the *Petition to Determine Succession to Real Property (Estates of \$150,000 or Less)* (form DE-310) to require the petitioner to state, if his or her claim to the subject property is based on an inheritance, facts that show the character of the subject property to be community, separate, or quasi-community property.