

File No. 140860

Committee Item No. A

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date September 24, 2014

Board of Supervisors Meeting

Date _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

- TIDA Resolution
- AB 699
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Completed by: Linda Wong

Date September 19, 2014

Completed by: _____

Date _____

1 [Cooperative Agreement Modification - United States Navy - Treasure Island Development
2 Authority]

3 **Resolution approving and authorizing the Treasure Island Development Authority to**
4 **enter into a modification of the Cooperative Agreement with the United States Navy to**
5 **extend the Cooperative Agreement from October 1, 2014, to September 30, 2015.**

6
7 WHEREAS, Former Naval Station Treasure Island is a military base located on
8 Treasure Island and Yerba Buena Island (together, the "Base"), which is currently owned by
9 the United States of America (the "Navy"); and

10 WHEREAS, The Base was selected for closure and disposition by the Base
11 Realignment and Closure Commission in 1993, acting under Public Law 101-510, and its
12 subsequent amendments; and

13 WHEREAS, On May 2, 1997, the Board of Supervisors passed Resolution No. 380-97,
14 authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit
15 corporation known as the Treasure Island Development Authority (the "Authority") to act as a
16 single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and
17 conversion of the Base for the public interest, convenience, welfare and common benefit of
18 the inhabitants of the City and County of San Francisco; and

19 WHEREAS, On September 3, 1997, the Board of Supervisors passed Resolution No.
20 806-97, authorizing the City to enter into a Cooperative Agreement with the Navy under which
21 the City (initially) and the Authority (subsequently) agreed to assume certain responsibilities
22 for (i) operation and maintenance for the water, waste water, storm water, electric and gas
23 utility systems on the Base, (ii) security and public health and safety services, (iii) grounds and
24 street maintenance and repair, and (iv) property management and caretaker services; and

25
Treasure Island Development Authority

1 WHEREAS, The Cooperative Agreement has been amended numerous times and the
2 current term of the Cooperative Agreement expires on September 30, 2014; and

3 WHEREAS, The Authority and the Navy wish to extend the term of the Cooperative
4 Agreement to September 30, 2015, by entering into a Modification to the Cooperative
5 Agreement in substantially the form of the Cooperative Agreement Modification filed with the
6 Clerk of the Board of Supervisors in File No. 140860 (the "Modification"); and

7 WHEREAS, The Authority Board of Directors approved the Modification at its July 9th,
8 2014 meeting; and

9 WHEREAS, The Board of Supervisors Resolution establishing the Authority, AB 699
10 and TIDA's Bylaws require that the Authority obtain Board of Supervisors approval of any
11 agreements having a term in excess of ten (10) years or anticipated revenues of \$1,000,000
12 or more; and

13 WHEREAS, The Cooperative Agreement, as amended, is a contract with a term in
14 excess of 10 years; now, therefore, be it

15 RESOLVED, That the Board of Supervisors hereby approves the Modification and
16 authorizes the Director of Island Operations of the Authority or her designee to execute and
17 enter into the Modification in substantially the form of the Cooperative Agreement Modification
18 filed with the Clerk of the Board of Supervisors in File No. 140860 and any additions,
19 amendments or other modifications to such Modification (including, without limitation, its
20 exhibits) that the Director of Island Operations of the Authority or her designee determines, in
21 consultation with the City Attorney, are in the best interests of the Authority and do not
22 otherwise materially increase the obligations or liabilities of the Authority, and are necessary
23 or advisable to effectuate the purpose and intent of this resolution; and, be it

24 FURTHER RESOLVED, That within thirty (30) days of the Cooperation Agreement
25

1 Modification being fully executed by all parties the Authority shall provide the final Cooperation
2 Agreement Modification to the Clerk of the Board for inclusion into the official file.

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CITY & COUNTY OF SAN FRANCISCO

TREASURE ISLAND DEVELOPMENT AUTHORITY
ONE AVENUE OF THE PALMS,
2ND FLOOR, TREASURE ISLAND
SAN FRANCISCO, CA 94130
(415) 274-0660 FAX (415) 274-0299
WWW.SFTREASUREISLAND.ORG



MIRIAN SAEZ
DIRECTOR OF ISLAND OPERATIONS

July 21, 2014

Ms. Angela Calvillo
Clerk of the Board
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Dear Ms. Calvillo

The Treasure Island Development Authority ("TIDA") requests that the following seven pieces of legislation be formally introduced at the Board of Supervisors and calendared for hearing and consideration of approval at the Boards earliest convenience:

- Extension of the term of the Treasure Island South Waterfront Master Lease between TIDA and the United States Navy ("Navy")
- Extension of the term of the Treasure Island Land and Structures Master Lease between TIDA and the Navy
- Extension of the term of the Treasure Island Marina Master Lease between TIDA and the Navy
- Extension of the term of the Treasure Island Childcare Center Master Lease between TIDA and the Navy
- Extension of the term of the Treasure Island Events Venues Master Lease between TIDA and the Navy
- Extension of the term of the Treasure Island Fire Fighting Training Center Master Lease between TIDA and the United States Navy
- Extension of the term of the Cooperative Agreement between TIDA and the United States Navy.

Please find enclosed one original and four copies of the materials for each item. Thank you for your attention to this matter. Should your office have any questions, please do not hesitate to contact me at 415-274-0669.

Sincerely,


Mirian Saez
Director of Island Operations

Cc: file

Enclosures

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2014 JUL 21 PM 4:40
RS

**Treasure Island Development Authority
City and County of San Francisco**

Resolution Approving and Authorizing the Treasure Island Development Authority to Enter into a Modification of the Cooperative Agreement with the United States Navy to Extend the Cooperative Agreement from October 1, 2014 to September 30, 2015.

SUMMARY OF PROPOSED ACTION:

This item seeks approval and authorization to extend the Cooperative Agreement between the Treasure Island Development Authority (the "Authority") and the U.S. Navy (the "Navy") from October 1, 2014 to September 30, 2015.

BACKGROUND:

With the approval of the Board of Supervisors, the City and the Authority entered into a Cooperative Agreement with the United States Navy, and numerous modifications to the Cooperative Agreement, under which the City (initially) and the Authority (subsequently) agreed to assume certain responsibilities for (i) operation and maintenance for the water, waste water, storm water, electric and gas utility systems on the Base, (ii) security and public health and safety services, (iii) grounds and street maintenance and repair, and (iv) property management and caretaker services. The Cooperative Agreement is renewed yearly.

The current term of the Cooperative Agreement, as amended, expires on September 30, 2014. The Authority and the Navy wish to extend the term of the Cooperative Agreement from October 1, 2014 to September 30, 2015 under the same terms and conditions that exist prior to the expiration of the current term of the Cooperative Agreement.

The Authority's Board of Directors approved this Cooperative Agreement Modification at its July 9th, 2014 meeting. Pursuant to the Board of Supervisors Resolution establishing the Authority, AB 699 and TIDA's Bylaws, Board of Supervisors approval is required of any contract or agreement entered into by the Authority with a term longer than ten years. Because the term of the Cooperative Agreement has exceeded ten years, the Director of Island Operations requests approval of the Cooperative Agreement modification from the Board of Supervisors to extend the term to September 30, 2015.

RECOMMENDATION:

Approve the modification to the Cooperative Agreement between the Authority and the United States Navy to extend the term to September 30, 2015.

Mirian Saez, Director of Island Operations

140860

UNITED STATES NAVY
NAVAL FACILITIES ENGINEERING COMMAND
WASHINGTON NAVY YARD
1322 PATTERSON AVENUE SE, SUITE 1000
WASHINGTON, DC 20374-5065

COOPERATIVE AGREEMENT
NO. N62474-97-2-0003
MODIFICATION P00029

COOPERATIVE AGREEMENT

GRANTEE: CITY OF COUNTY OF SAN FRANCISCO
TREASURE ISLAND DEVELOPMENT AUTHORITY
ONE AVENUE OF THE PALMS, BUILDING 1, ROOM 237
TREASURE ISLAND, SAN FRANCISCO, CA 94130

AUTHORITY: 31 U.S.C. Section 6305 & 10 U.S.C. Section 2687 note, section 204 (a) (2) of
Defense Base Closure Act of 1988 (P. L. 100-526)

COOPERATIVE AGREEMENT MODIFICATION

The purpose of this modification, in accordance with Section 701 of the General Provisions, is to extend the current Cooperative Agreement from 01 October 2014 to 30 September 2015.

As mutually agreed herein by both parties, the costs of extended caretaker services shall be borne exclusively of and by the Caretaker as an offset of existing revenue generating sources, present and future, through the extended period of the Cooperative Agreement ending 30 September 2015. The Caretaker shall not be obligated under this Cooperative Agreement to perform caretaker services when the cost of such services exceeds the amount of income received from subleasing activities on the property. In no event shall the Government be liable for providing funding or reimbursing the Caretaker for such caretaker services.

The general provisions, terms and conditions of the basic Cooperative Agreement, and all previous modifications, remain the same as previously adopted.

As a result of this Modification, the total funded amount of the Cooperative Agreement remains the same at \$12,848,213.00.

UNITED STATES NAVY
NAVAL FACILITIES ENGINEERING COMMAND
WASHINGTON NAVY YARD
1322 PATTERSON AVENUE SE, SUITE 1000
WASHINGTON, DC 20374-5065

COOPERATIVE AGREEMENT
NO. N62474-97-2-0003
MODIFICATION P00029

IN WITNESS WHEREOF, The parties to this Agreement by their authorized representatives hereby cause this Agreement to be executed.

For the CITY AND COUNTY
OF SAN FRANCISCO
TREASURE ISLAND DEVELOPMENT
AUTHORITY as Caretaker:

For the United States Navy:

By: _____
Treasure Island Development Authority

By: _____
Ms. Cindy Readal
Grants Officer

Date: _____

Date: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

Charles Sullivan, Deputy City Attorney

FILE NO. 244-97-3

RESOLUTION NO. 380-97

1 [Treasure Island Development Authority]
2 AUTHORIZING THE INCORPORATION OF THE TREASURE ISLAND DEVELOPMENT
3 AUTHORITY AND APPROVING AND RATIFYING CERTAIN ACTIONS IN CONNECTION
15/97
b 4 THEREWITH ; REQUESTING QUARTERLY PROGRESS REPORTS.

5 WHEREAS, Naval Station Treasure Island is a military base
6 located on Treasure Island and Yerba Buena Island (together, the
7 "Base"), which is currently owned by the United States of America
8 (the "Federal Government"); and,

9 WHEREAS, Treasure Island was selected for closure and
10 disposition by the Base Realignment and Closure Commission in 1993,
11 acting under Public Law 101-510, and its subsequent amendments; and,

12 WHEREAS, In 1995, the General Service Administration and the
13 Bureau of Land Management determined that Yerba Buena Island was
14 surplus to the Federal Government's needs and could be transferred to
15 the administrative jurisdiction of the Department of Defense under
16 the Base Closure and Realignment Act of 1990 and disposed of together
17 with Treasure Island; and,

18 WHEREAS, The Federal Government plans to close the Base on or
19 about October 1, 1997; and,

20 WHEREAS, The City and County of San Francisco is the Local Reuse
21 Authority for the Base; and

22 WHEREAS, On July 25, 1996, the Board of Supervisors (the
23 "Board") passed Resolution No.672-96 endorsing a draft reuse plan for
24 the Base as the preferred alternative for the purposes of initiating
25

MAYOR WILLIE L. BROWN, JR.
BOARD OF SUPERVISORS

1 environmental analysis and meeting the requirements of federal base
2 closure laws (the "Draft Reuse Plan"); and,

3 WHEREAS, The City desires to establish a nonprofit public
4 benefit corporation (the "Authority") to promote the planning,
5 redevelopment, reconstruction, rehabilitation, reuse and conversion
6 of the Base for the public interest, convenience, welfare and common
7 benefit of the inhabitants of the City and County of San Francisco;
8 and

9 WHEREAS, The Board desires to approve and authorize the
10 formation and organization of the Authority for such purposes; and

11 WHEREAS, The Board has been presented with the form of the
/15/97 as amended on 4/15/97 by the Econ. Dev., Trans. & Tech. Cmte. to substitute a new
1b 12 Articles of Incorporation and the Bylaws of the Treasure Island Page 6
13 Development Authority, and the Board has examined and approved such
14 documents and desires to authorize the incorporation of such
15 nonprofit public benefit corporation and direct the execution and
16 filing of such articles; now, therefore, be it

17 RESOLVED, That, the Board hereby finds and determines that it is
18 in the public interest, convenience and welfare and for the common
19 benefit of the inhabitants of the City that a nonprofit public
20 benefit corporation be organized under the laws of the State of
21 California to promote the planning, redevelopment, reconstruction,
22 rehabilitation, reuse and conversion of the Base; and be it

23 FURTHER RESOLVED, That the Mayor, or his designee, is hereby
24 authorized to act as Incorporator and to cause the formation and
25 organization of such nonprofit public benefit corporation, which

MAYOR WILLIE L. BROWN, JR.
BOARD OF SUPERVISORS

1 shall be designated as the "Treasure Island Development Authority";
2 and be it

3 FURTHER RESOLVED, That the form, terms and provisions of the
4 Articles of Incorporation of the Authority (the "Articles of
5 Incorporation") and Bylaws, in the form presented at this meeting and
6 filed with the Clerk of the board in File No. 244-97-3 be, and
7 they hereby are, approved, and the Mayor, or his designee, is hereby
8 is authorized and empowered to execute by manual signature and file,
9 or cause to be filed, with the office of the Secretary of State, the
10 Articles of Incorporation, with such changes and insertions therein
11 as may be necessary to cause the same to carry out the intent of this
12 resolution or to comply with the California Nonprofit Public Benefit
13 Corporation Law and as are approved by the Mayor, such approval to be
14 conclusively evidenced by the filing of the Articles of Incorporation
15 with the office of the Secretary of State; and be it

16 FURTHER RESOLVED, That the Authority shall be subject to the
17 budget and fiscal provisions of the City's Charter; and be it

18 FURTHER RESOLVED, That all actions heretofore taken by the
19 officers and agents of the City with respect to the formation and
20 organization of the Corporation are hereby approved, confirmed, and
21 ratified, and the officers of the City and their authorized deputies
22 and agents are hereby authorized and urged, jointly and severally, to
23 do any and all things and to execute and deliver any and all
24 certificates and other documents in addition to the documents
25 referred to in this resolution, which they or the City Attorney may

MAYOR WILLIE L. BROWN, JR.
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1 deem necessary or advisable in order to effectuate the purposes of
2 this resolution; and, be it

3 FURTHER RESOLVED, That the Authority shall submit quarterly
4 progress reports to the Economic Development, Transportation &
5 Technology Committee of the Board of Supervisors; and, be it

1/97 6 FURTHER RESOLVED, That to the extent the Board, after the
7 completion of all required environmental reviews, approved a Homeless
8 Assistance Agreement for the Base with the Treasure Island Homeless
97 9 Development Initiative (the "~~THDI~~ ^{TIHDI} Agreement"), a draft of which the
10 Board endorsed on July 25, 1996, in Resolution No. 672-96, the
11 Authority, as the local reuse authority for the Base, shall be bound
12 by and subject to all of the terms and conditions of the ~~THDI~~ ^{TIHDI}
rt 13 Agreement, as such agreement may be finally approved by the Board.

14
15
16
17 (See File for Signature)
18 Director, Treasure Island Project Office

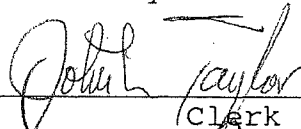
Adopted - Board of Supervisors, San Francisco April 21, 1997

Ayes: Supervisors Ammiano Bierman Brown Kaufman Leal Medina
Newsom Teng Yaki

Noes: Supervisor Yee

Absent: Supervisor Katz

I hereby certify that the foregoing resolution
was adopted by the Board of Supervisors
of the City and County of San Francisco


Clerk

Clerk

File No.
244-97-3

MAY - 2 1997

Date Approved



Mayor

FILE NO. 244-97-4

RESOLUTION NO. 806-97

1 [Treasure Island Cooperative Agreement]

2 APPROVING AND AUTHORIZING THE CITY TO ENTER INTO A COOPERATIVE
3 AGREEMENT WITH THE NAVY WHEREBY THE CITY WILL ASSUME CERTAIN
4 RESPONSIBILITIES REGARDING THE OPERATION AND MAINTENANCE OF TREASURE
5 ISLAND, AND THE NAVY WILL REIMBURSE THE CITY FOR THE COSTS THEREFOR.

6 WHEREAS, Naval Station Treasure Island is a military base
7 located on Treasure Island and Yerba Buena Island (together, the
8 "Base"), which is currently owned by the United States of America
9 (the "Federal Government") and operated by the United States Navy
10 (the "Navy"); and,

11 WHEREAS, The Base was selected for closure and disposition
12 by the Base Realignment and Closure Commission in 1993, acting under
13 Public Law 101-510, and its subsequent amendments; and,

14 WHEREAS, The Federal Government plans to close the Base on
15 or about October 1, 1997; and,

16 WHEREAS, The City and County of San Francisco is the Local
17 Reuse Authority for the Base; and,

18 WHEREAS, With the approval of this Board, the City entered
19 into an Interim Cooperative Agreement with the Navy whereby the City
20 agreed to provide certain utility services to the Base and the Navy
21 agreed to reimburse the City for the costs of operating and
22 maintaining those utility systems for the period from April 1, 1997
23 to September 30, 1997 (the "Interim Cooperative Agreement"); and,

24 WHEREAS, Pursuant to the terms and conditions of a
25 Cooperative Agreement substantially in the form of the Cooperative

Mayor Willie L. Brown, Jr.

BOARD OF SUPERVISORS

1 Agreement filed with the Clerk of the Board in File No.

2 244-97-4 (the "Cooperative Agreement"), which would constitute
3 a modification and amendment to the Interim Cooperative Agreement,
4 the City would assume certain responsibilities for the provision of
5 (i) operation and maintenance for the water, waste water, storm
6 water, electric and gas utility systems on the Base, (ii) security
7 and public health and safety services, (iii) grounds and street
8 maintenance and repair, and (iv) property management and caretaker
9 services; and,

10 WHEREAS, Since the City may eventually take title to the
11 Base through an economic development conveyance or other conveyance
12 from the Navy, the City has an interest in learning about the
13 operation and maintenance of the Base and assuring the proper
14 operation and maintenance of the Base; and,

15 WHEREAS, The Navy has agreed to reimburse the City for up
16 to Four Million Dollars (\$4,000,000) of the City's costs of operating
17 and maintaining the Base pursuant to the Cooperative Agreement for
18 the period from October 1, 1997, to September 30, 1998; and,

19 WHEREAS, Subject to sufficient appropriations from the
20 Federal Government to the Navy and the consent of the City, the City
21 and the Navy may extend the term of the Cooperative Agreement, and
22 the funding therefor, for an additional year from October 1, 1998 to
23 September 30, 1999; and,

24 WHEREAS, Pursuant to the Cooperative Agreement, the City
25 will indemnify and hold harmless the Federal Government from any

Mayor Willie L. Brown, Jr.

BOARD OF SUPERVISORS

Page 2 of 3

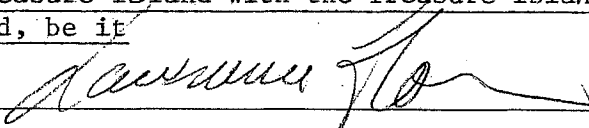
1 claims, losses or other damages incurred by the Federal Government as
2 a result of the City's activities pursuant to the Cooperative
3 Agreement, including, without limitation, spills or other discharges
4 of hazardous materials caused by the City; Now, therefore, be it

5 RESOLVED, That the Board hereby approves the Cooperative
6 Agreement and authorizes the Mayor to execute and enter into the
7 Cooperative Agreement on behalf of the City; and be it

8 FURTHER RESOLVED, That the Board authorizes the Mayor to
9 enter into modifications to the Cooperative Agreement (including,
10 without limitation, the attachment of exhibits) that the Mayor
11 determines are in the best interests of the City, do not materially
12 increase the obligations or liabilities of the City, and are
13 necessary and advisable to effectuate the purpose and intent of this
14 resolution; and be it

15 FURTHER RESOLVED, That all actions heretofore taken by the
16 officers and agents of the City with regard to the Cooperative
17 Agreement are hereby approved, confirmed and ratified.

18 FURTHER RESOLVED, That in the implementation of this agreement, the
19 Mayor's Office shall comply with the requirements regarding the contracting of ser
'19/97
b 20 services reflected in the Legally Binding Agreements for Homeless Services on Treasure
21 Treasure Island with the Treasure Island Homeless Development Initiative (TIHDI);
22 and, be it

23 
24 _____
25 Director, Treasure Island Project Office

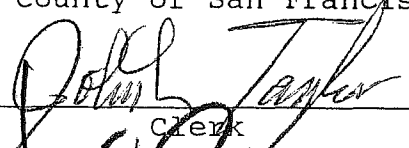
Mayor Willie L. Brown, Jr.
BOARD OF SUPERVISORS


Adopted - Board of Supervisors, San Francisco August 25, 1997

Ayes: Supervisors Ammiano Bierman Brown Katz Kaufman Leal
Medina Newsom Yaki Yee

Absent: Supervisor Teng

I hereby certify that the foregoing resolution
was adopted by the Board of Supervisors
of the City and County of San Francisco



Clerk


Mayor

File No.
244-97-4

Sept. 3, 1997
Date Approved

BILL NUMBER: AB 699 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY MARCH 25, 2011

INTRODUCED BY Assembly Member Wagner

FEBRUARY 17, 2011

An act to amend Section 2040 of the Family Code, to amend Sections 250, 267, 279, 5000, 5302, 13111, 13206, and 13562 of, to amend and renumber Sections 5600, 5601, 5602, 5603, and 5604 of, to add Section 69 to, to add the heading of Chapter 3 (commencing with Section 5040) to Part 1 of Division 5 of, to add and repeal Part 4 (commencing with Section 5600) of Division 5 of, and to repeal the heading of Part 4 (commencing with Section 5600) of Division 5 of, the Probate Code, relating to nonprobate transfers.

LEGISLATIVE COUNSEL'S DIGEST

AB 699, as amended, Wagner. Nonprobate transfers: revocable transfer upon death deeds.

(1) Existing law provides that a person may pass real property to a beneficiary at death by various methods including by will, intestate succession, trust, and titling the property in joint tenancy, among others.

This bill would, until January 1, 2017, create the revocable transfer on death deed (revocable TOD deed), as defined, which would transfer real property on the death of its owner without a probate proceeding. The bill would require that a person have testamentary capacity to make or revoke the deed and would require that the deed be in a statutory form provided for this purpose. The revocable TOD deed must be signed, dated, acknowledged, and recorded, as specified, to be effective. The bill would provide, among other things, that the deed, during the owner's life, does not affect his or her ownership rights and, specifically, is part of the owner's estate for the purpose of Medi-Cal eligibility and reimbursement. The bill would void a revocable TOD deed if, at the time of the owner's death, the property is titled in joint tenancy or as community property with right of survivorship. The bill would establish priorities for creditor claims against the owner and the beneficiary of the deed in connection with the property transferred and limits on the liability of the beneficiary. The bill would establish a process for contesting the transfer of real property by a revocable TOD deed. The bill would also make conforming and technical changes. The bill would require the California Law Revision Commission to study and make recommendations regarding the revocable TOD deed to the Legislature by January 1, ~~2017~~ 2016 .

(2) Existing law provides that a person who feloniously and intentionally kills a decedent is not entitled to specified property, interests, or benefits, including any gifts of personal property made in view of impending death.

This bill would specify that a person who feloniously and intentionally kills a decedent is not entitled generally to property and interests that are transferred outside of probate, including real property transferred by a revocable TOD deed.

(3) Existing law establishes simplified procedures for dealing

with a decedent's estate valued under \$100,000, including authorizing the successor of the decedent to collect and distribute property due the decedent without letters of administration or awaiting probate of a will. Existing law provides that a beneficiary who receives real or personal property under these circumstances, as specified, may be liable to the estate if probate proceedings are subsequently commenced. Existing law provides, in this context, that a spouse has liability for the debts of a deceased spouse if the decedent's property is in the control of the surviving spouse. Existing law permits a court judgment to enforce liability in these instances only to the extent necessary to protect the heirs, devisees, and creditors of the decedent.

This bill would delete the reference to court judgment and provide instead that the personal representative of the estate is permitted to enforce liability only to the extent necessary to protect the heirs, devisees, and creditors of the decedent.

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2040 of the Family Code is amended to read:

2040. (a) In addition to the contents required by Section 412.20 of the Code of Civil Procedure, the summons shall contain a temporary restraining order:

(1) Restraining both parties from removing the minor child or children of the parties, if any, from the state without the prior written consent of the other party or an order of the court.

(2) Restraining both parties from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life, and requiring each party to notify the other party of any proposed extraordinary expenditures at least five business days before incurring those expenditures and to account to the court for all extraordinary expenditures made after service of the summons on that party.

Notwithstanding the foregoing, nothing in the restraining order shall preclude a party from using community property, quasi-community property, or the party's own separate property to pay reasonable attorney's fees and costs in order to retain legal counsel in the proceeding. A party who uses community property or quasi-community property to pay his or her attorney's retainer for fees and costs under this provision shall account to the community for the use of the property. A party who uses other property that is subsequently determined to be the separate property of the other party to pay his or her attorney's retainer for fees and costs under this provision shall account to the other party for the use of the property.

(3) Restraining both parties from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties and their child or children for whom support may be ordered.

(4) Restraining both parties from creating a nonprobate transfer or modifying a nonprobate transfer in a manner that affects the disposition of property subject to the transfer, without the written consent of the other party or an order of the court.

(b) Nothing in this section restrains any of the following:

(1) Creation, modification, or revocation of a will.

(2) Revocation of a nonprobate transfer, including a revocable trust, pursuant to the instrument, provided that notice of the change is filed and served on the other party before the change takes effect.

(3) Elimination of a right of survivorship to property, provided that notice of the change is filed and served on the other party before the change takes effect.

(4) Creation of an unfunded revocable or irrevocable trust.

(5) Execution and filing of a disclaimer pursuant to Part 8 (commencing with Section 260) of Division 2 of the Probate Code.

(c) In all actions filed on and after January 1, 1995, the summons shall contain the following notice:

"WARNING: California law provides that, for purposes of division of property upon dissolution of marriage or legal separation, property acquired by the parties during marriage in joint form is presumed to be community property. If either party to this action should die before the jointly held community property is divided, the language of how title is held in the deed (i.e., joint tenancy, tenants in common, or community property) will be controlling and not the community property presumption. You should consult your attorney if you want the community property presumption to be written into the recorded title to the property."

(d) For the purposes of this section:

(1) "Nonprobate transfer" means an instrument, other than a will, that makes a transfer of property on death, including a revocable trust, pay on death account in a financial institution, Totten trust, transfer on death registration of personal property, revocable transfer on death deed, or other instrument of a type described in Section 5000 of the Probate Code.

(2) "Nonprobate transfer" does not include a provision for the transfer of property on death in an insurance policy or other coverage held for the benefit of the parties and their child or children for whom support may be ordered, to the extent that the provision is subject to paragraph (3) of subdivision (a).

(e) The restraining order included in the summons shall include descriptions of the notices required by paragraphs (2) and (3) of subdivision (b).

SEC. 2. Section 69 is added to the Probate Code, to read:

69. "Revocable transfer on death deed" or "revocable TOD deed" means a revocable transfer on death deed as described in Section 5614.

SEC. 3. Section 250 of the Probate Code is amended to read:

250. (a) A person who feloniously and intentionally kills the decedent is not entitled to any of the following:

(1) Any property, interest, or benefit under a will of the decedent, or a trust created by or for the benefit of the decedent or in which the decedent has an interest, including any general or special power of appointment conferred by the will or trust on the killer and any nomination of the killer as executor, trustee, guardian, or conservator or custodian made by the will or trust.

(2) Any property of the decedent by intestate succession.

(3) Any of the decedent's quasi-community property the killer would otherwise acquire under Section 101 or 102 upon the death of the decedent.

(4) Any property of the decedent under Division 5 (commencing with Section 5000).

(5) Any property of the decedent under Part 3 (commencing with Section 6500) of Division 6.

(b) In the cases covered by subdivision (a):

(1) The property interest or benefit referred to in paragraph (1) of subdivision (a) passes as if the killer had predeceased the decedent and Section 21110 does not apply.

(2) Any property interest or benefit referred to in paragraph (1) of subdivision (a) which passes under a power of appointment and by reason of the death of the decedent passes as if the killer had predeceased the decedent, and Section 673 does not apply.

(3) Any nomination in a will or trust of the killer as executor, trustee, guardian, conservator, or custodian which becomes effective as a result of the death of the decedent shall be interpreted as if the killer had predeceased the decedent.

SEC. 4. Section 267 of the Probate Code is amended to read:

267. (a) "Interest" includes the whole of any property, real or personal, legal or equitable, or any fractional part, share, or particular portion or specific assets thereof, or any estate in any such property, or any power to appoint, consume, apply, or expend property, or any other right, power, privilege, or immunity relating to property.

(b) "Interest" includes, but is not limited to, an interest created in any of the following manners:

- (1) By intestate succession.
- (2) Under a will.
- (3) Under a trust.
- (4) By succession to a disclaimed interest.
- (5) By virtue of an election to take against a will.
- (6) By creation of a power of appointment.
- (7) By exercise or nonexercise of a power of appointment.
- (8) By an inter vivos gift, whether outright or in trust.
- (9) By surviving the death of a depositor of a Totten trust account or P.O.D. account.
- (10) Under an insurance or annuity contract.
- (11) By surviving the death of another joint tenant.
- (12) Under an employee benefit plan.
- (13) Under an individual retirement account, annuity, or bond.
- (14) Under a transfer on death beneficiary designation in a deed or other instrument.
- (15) Any other interest created by a testamentary or inter vivos instrument or by operation of law.

SEC. 5. Section 279 of the Probate Code is amended to read:

279. (a) A disclaimer to be effective shall be filed within a reasonable time after the person able to disclaim acquires knowledge of the interest.

(b) In the case of any of the following interests, a disclaimer is conclusively presumed to have been filed within a reasonable time if it is filed within nine months after the death of the creator of the interest or within nine months after the interest becomes indefeasibly vested, whichever occurs later:

- (1) An interest created under a will.
- (2) An interest created by intestate succession.
- (3) An interest created pursuant to the exercise or nonexercise of a testamentary power of appointment.
- (4) An interest created by surviving the death of a depositor of a Totten trust account or P.O.D. account.
- (5) An interest created under a life insurance or annuity contract.
- (6) An interest created by surviving the death of another joint tenant.
- (7) An interest created under an employee benefit plan.
- (8) An interest created under an individual retirement account, annuity, or bond.

(9) An interest created under a transfer on death beneficiary designation in a deed or other instrument.

(c) In the case of an interest created by a living trust, an interest created by the exercise of a presently exercisable power of appointment, an outright inter vivos gift, a power of appointment, or an interest created or increased by succession to a disclaimed interest, a disclaimer is conclusively presumed to have been filed within a reasonable time if it is filed within nine months after whichever of the following times occurs latest:

(1) The time of the creation of the trust, the exercise of the power of appointment, the making of the gift, the creation of the power of appointment, or the disclaimer of the disclaimed property.

(2) The time the first knowledge of the interest is acquired by the person able to disclaim.

(3) The time the interest becomes indefeasibly vested.

(d) In case of an interest not described in subdivision (b) or (c), a disclaimer is conclusively presumed to have been filed within a reasonable time if it is filed within nine months after whichever of the following times occurs later:

(1) The time the first knowledge of the interest is acquired by the person able to disclaim.

(2) The time the interest becomes indefeasibly vested.

(e) In the case of a future estate, a disclaimer is conclusively presumed to have been filed within a reasonable time if it is filed within whichever of the following times occurs later:

(1) Nine months after the time the interest becomes an estate in possession.

(2) The time specified in subdivision (b), (c), or (d), whichever is applicable.

(f) If the disclaimer is not filed within the time provided in subdivision (b), (c), (d), or (e), the disclaimant has the burden of establishing that the disclaimer was filed within a reasonable time after the disclaimant acquired knowledge of the interest.

SEC. 6. Section 5000 of the Probate Code is amended to read:

5000. (a) A provision for a nonprobate transfer on death in an insurance policy, contract of employment, bond, mortgage, promissory note, certificated or uncertificated security, account agreement, custodial agreement, deposit agreement, compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, deed of gift, revocable transfer on death deed, marital property agreement, or other written instrument of a similar nature is not invalid because the instrument does not comply with the requirements for execution of a will, and this code does not invalidate the instrument.

(b) Included within subdivision (a) are the following:

(1) A written provision that moneys or other benefits due to, controlled by, or owned by a decedent before death shall be paid after the decedent's death to a person whom the decedent designates either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument, or later.

(2) A written provision that moneys due or to become due under the instrument shall cease to be payable in the event of the death of the promisee or the promisor before payment or demand.

(3) A written provision that any property controlled by or owned by the decedent before death that is the subject of the instrument shall pass to a person whom the decedent designates either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument, or later.

(c) Nothing in this section limits the rights of creditors under

any other law.

SEC. 7. Section 5302 of the Probate Code is amended to read:

5302. Subject to Section 5040:

(a) Sums remaining on deposit at the death of a party to a joint account belong to the surviving party or parties as against the estate of the decedent unless there is clear and convincing evidence of a different intent. If there are two or more surviving parties, their respective ownerships during lifetime are in proportion to their previous ownership interests under Section 5301 augmented by an equal share for each survivor of any interest the decedent may have owned in the account immediately before the decedent's death; and the right of survivorship continues between the surviving parties.

(b) If the account is a P.O.D. account:

(1) On death of one of two or more parties, the rights to any sums remaining on deposit are governed by subdivision (a).

(2) On death of the sole party or of the survivor of two or more parties, (A) any sums remaining on deposit belong to the P.O.D. payee or payees if surviving, or to the survivor of them if one or more die before the party, (B) if two or more P.O.D. payees survive, any sums remaining on deposit belong to them in equal and undivided shares unless the terms of the account or deposit agreement expressly provide for different shares, and (C) if two or more P.O.D. payees survive, there is no right of survivorship in the event of death of a P.O.D. payee thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

(c) If the account is a Totten trust account:

(1) On death of one of two or more trustees, the rights to any sums remaining on deposit are governed by subdivision (a).

(2) On death of the sole trustee or the survivor of two or more trustees, (A) any sums remaining on deposit belong to the person or persons named as beneficiaries, if surviving, or to the survivor of them if one or more die before the trustee, unless there is clear and convincing evidence of a different intent, (B) if two or more beneficiaries survive, any sums remaining on deposit belong to them in equal and undivided shares unless the terms of the account or deposit agreement expressly provide for different shares, and (C) if two or more beneficiaries survive, there is no right of survivorship in event of death of any beneficiary thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

(d) In other cases, the death of any party to a multiparty account has no effect on beneficial ownership of the account other than to transfer the rights of the decedent as part of the decedent's estate.

(e) A right of survivorship arising from the express terms of the account or under this section, a beneficiary designation in a Totten trust account, or a P.O.D. payee designation, cannot be changed by will.

SEC. 8. The heading of Part 4 (commencing with Section 5600) of Division 5 of the Probate Code is repealed.

SEC. 9. A heading is added as Chapter 3 (commencing with Section 5040) to Part 1 of Division 5 of the Probate Code, immediately preceding Section 5040, to read:

CHAPTER 3. NONPROBATE TRANSFER TO FORMER SPOUSE

SEC. 10. Section 5600 of the Probate Code is amended and renumbered to read:

5040. (a) Except as provided in subdivision (b), a nonprobate transfer to the transferor's former spouse, in an instrument executed

by the transferor before or during the marriage, fails if, at the time of the transferor's death, the former spouse is not the transferor's surviving spouse as defined in Section 78, as a result of the dissolution or annulment of the marriage. A judgment of legal separation that does not terminate the status of husband and wife is not a dissolution for purposes of this section.

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

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

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

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

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

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

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

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

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

SEC. 11. Section 5601 of the Probate Code is amended and renumbered to read:

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

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

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

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

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

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

SEC. 12. Section 5602 of the Probate Code is amended and renumbered to read:

5044. (a) Nothing in this chapter affects the rights of a purchaser or encumbrancer of real property for value who in good faith relies on an affidavit or a declaration under penalty of perjury under the laws of this state that states all of the

following:

(1) The name of the decedent.

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

(3) A description of the real property transferred to the affiant or declarant by an instrument making a nonprobate transfer or by operation of joint tenancy survivorship.

(4) Either of the following, as appropriate:

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

(B) The affiant or declarant is not the surviving spouse of the decedent, but the rights of the affiant or declarant to the described property are not affected by Section 5040 or 5042.

(b) A person relying on an affidavit or declaration made pursuant to subdivision (a) has no duty to inquire into the truth of the matters stated in the affidavit or declaration.

(c) An affidavit or declaration made pursuant to subdivision (a) may be recorded.

SEC. 13. Section 5603 of the Probate Code is amended and renumbered to read:

5046. Nothing in this chapter is intended to limit the court's authority to order a party to a dissolution or annulment of marriage to maintain the former spouse as a beneficiary on any nonprobate transfer described in this chapter, or to preserve a joint tenancy in favor of the former spouse.

SEC. 14. Section 5604 of the Probate Code is amended and renumbered to read:

5048. (a) This chapter, formerly Part 4 (commencing with Section 5600), is operative on January 1, 2002.

(b) Except as provided in subdivision (c), this chapter applies to an instrument making a nonprobate transfer or creating a joint tenancy whether executed before, on, or after the operative date of this chapter.

(c) Sections 5040 and 5042 do not apply, and the applicable law in effect before the operative date of this chapter applies, to an instrument making a nonprobate transfer or creating a joint tenancy in either of the following circumstances:

(1) The person making the nonprobate transfer or creating the joint tenancy dies before the operative date of this chapter.

(2) The dissolution of marriage or other event that terminates the status of the nonprobate transfer beneficiary or joint tenant as a surviving spouse occurs before the operative date of this part.

SEC. 15. Part 4 (commencing with Section 5600) is added to Division 5 of the Probate Code, to read:

PART 4. REVOCABLE TRANSFER ON DEATH DEED

CHAPTER 1. GENERAL PROVISIONS

Article 1. Preliminary Provisions

5600. (a) This part applies to a revocable transfer on death deed made by a transferor who dies on or after January 1, 2012, whether the deed was executed or recorded before, on, or after January 1, 2012.

(b) Nothing in this part invalidates an otherwise valid transfer under Section 5602.

(c) This part shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date. The repeal of this part pursuant to this subdivision shall not affect the validity or effect of a revocable transfer on death deed that is executed before January 1, 2017, and shall not affect the authority of the transferor to revoke a transfer on death deed by recording a signed and notarized instrument that is substantially in the form specified in Section 5644.

5602. (a) This part does not preclude use of any other method of conveying real property that is permitted by law and that has the effect of postponing enjoyment of the property until the death of the owner.

(b) This part does not invalidate a deed of real property, otherwise effective to convey title to the property, that is not recorded until after the death of the owner.

5604. (a) Except as provided in subdivision (b), nothing in this part affects the application to a revocable transfer on death deed of any other statute governing a nonprobate transfer on death, including, but not limited to, any of the following provisions that by its terms or intent would apply to a nonprobate transfer on death:

- (1) Division 2 (commencing with Section 100).
- (2) Part 1 (commencing with Section 5000) of this division.
- (3) Division 10 (commencing with Section 20100).
- (4) Division 11 (commencing with Section 21101).

(b) Notwithstanding subdivision (a), a provision of another statute governing a nonprobate transfer on death does not apply to a revocable transfer on death deed to the extent this part provides a contrary rule.

Article 2. Definitions

5606. Unless the provision or context otherwise requires, the definitions in this article govern the construction of this part.

5608. "Beneficiary" means a person named in a revocable transfer on death deed as transferee of the property.

5610. "Real property" means the fee or an interest in real property. The term includes, but is not limited to, any of the following interests in real property:

- (a) A leasehold.
- (b) An interest in a common interest development within the meaning of Section 1351 of the Civil Code.
- (c) An easement, license, permit, or other right in property to the extent the right is both (1) a recordable interest in property and (2) transferable on death of the owner of the right.

5612. "Recorded" has the meaning provided in Section 1170 of the Civil Code.

5614. (a) "Revocable transfer on death deed" means an instrument created pursuant to this part that does all of the following:

(1) Makes a donative transfer of real property to a named beneficiary.

(2) Operates on the transferor's death.

(3) Remains revocable until the transferor's death.

(b) A revocable transfer on death deed may also be known as a "revocable TOD deed."

5616. "Transferor" means an owner of real property who makes a revocable transfer on death deed of the property.

CHAPTER 2. EXECUTION AND REVOCATION

Article 1. Execution

5620. An owner of real property who has testamentary capacity may make a revocable transfer on death deed of the property.

5622. (a) The transferor shall identify the beneficiary by name in a revocable transfer on death deed.

(b) The transferor may name more than one beneficiary. If there is more than one beneficiary, they take the property as tenants in common, in equal shares.

(c) The transferor may name as beneficiary the trustee of a trust even if the trust is revocable.

5624. (a) Except as provided in subdivision (b), a revocable transfer on death deed is not effective unless the transferor signs and dates the deed and acknowledges the deed before a notary public.

(b) A revocable transfer on death deed may be signed and dated in the transferor's name by a person other than the transferor at the transferor's direction and in the transferor's presence, but shall be acknowledged by the transferor.

5626. (a) A revocable transfer on death deed is not effective unless the deed is recorded on or before 60 days after the date it was executed.

(b) The transferor is not required to deliver a revocable transfer on death deed to the beneficiary during the transferor's life.

(c) The beneficiary is not required to accept a revocable transfer on death deed from the transferor during the transferor's life.

5628. (a) If a revocable transfer on death deed is recorded for the same property for which another revocable transfer on death deed is recorded, the later executed

deed is the operative instrument and its recordation revokes the earlier executed deed.

(b) Revocation of a revocable transfer on death deed does not revive an instrument earlier revoked by recordation of that deed.

Article 2. Revocation

5630. A transferor who has testamentary capacity may revoke a revocable transfer on death deed at any time.

5632. (a) An instrument revoking a revocable transfer on death deed shall be executed and recorded before the transferor's death in the same manner as execution and recordation of a revocable transfer on death deed.

(b) Joinder, consent, or agreement of, or notice to, the beneficiary is not required for revocation of a revocable transfer on death deed.

Article 3. Statutory Forms

5642. A revocable transfer on death deed shall be in the form provided in this section.

(a) The face of the form shall be in substantially the following form:

SIMPLE REVOCABLE TRANSFER ON DEATH (TOD) DEED
(California Probate Code Section 5642)

Recording Requested By:

When Recorded Mail This Deed To

Name:

Address:

Assessor's Parcel Number: Space Above For Recorder's Use

This document is exempt from documentary transfer tax under Rev. & Tax. Code a7 11930. This document is exempt from preliminary change of ownership report under Rev. & Tax. Code a7 480.3.

IMPORTANT NOTICE: THIS DEED MUST BE RECORDED ON OR BEFORE 60 DAYS AFTER THE DATE IT IS SIGNED

Use this deed to transfer the property described below directly to your named beneficiaries when you die. YOU SHOULD CAREFULLY READ ALL OF THE INFORMATION ON THE OTHER SIDE OF THIS FORM. You may wish to consult an attorney before using this deed. It may have results that you do not want. Provide only the information asked for in the form. DO NOT INSERT ANY OTHER INFORMATION OR INSTRUCTIONS. This form MUST be RECORDED on or before 60 days after the date it is signed or it will not be effective.

PROPERTY DESCRIPTION

Print the address or other legal description of the property affected by this deed:

BENEFICIARY(IES)

Print the NAME(S) of the person(s) who will receive the property on your death (DO NOT use general terms like "'my children''):

TRANSFER ON DEATH

I transfer all of my interest in the described property to the named beneficiary(ies) on my death. I may revoke this deed. When recorded, this deed revokes any TOD deed that I made before signing this deed.

Sign and print your name below:

Date _____

NOTE: This deed only transfers MY ownership share of the property. The deed does NOT transfer the share of any co-owner of the property. Any co-owner who wants to name a TOD beneficiary must complete and RECORD a SEPARATE deed.

ACKNOWLEDGMENT OF NOTARY

State of California)
County of _____)

On _____ before me, (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

(b) The reverse side of a form executed under this section shall be in substantially the following form:

COMMON QUESTIONS ABOUT THE USE OF THIS FORM

WHAT DOES THE TOD DEED DO? When you die, the identified property will transfer to your named beneficiary without probate. The TOD deed has no effect until you die. You can revoke it at any time.

HOW DO I USE THE TOD DEED? Complete this form. Have it notarized. RECORD the form in the county where the property is located. The form MUST be recorded on or before 60 days after the date you sign it or the deed has no effect.

HOW DO I "'RECORD' THE FORM? Take the completed and notarized form to the County Recorder for the county in which the property is located. Follow the instructions given by the County Recorder to make the form part of the official property records.

WHAT IF I SHARE OWNERSHIP OF THE PROPERTY? This form only transfers YOUR share of the property. If a co-owner also wants to name a TOD beneficiary, that co-owner must complete and RECORD a separate form.

CAN I REVOKE THE TOD DEED IF I CHANGE MY MIND? Yes. You may revoke the TOD deed at any time. No one, including your beneficiary, can prevent you from revoking the deed.

HOW DO I REVOKE THE TOD DEED? There are three ways to revoke a recorded TOD deed: (1) Complete, notarize, and RECORD a revocation form. (2) Create and RECORD a new TOD deed, trust, or other estate planning document that disposes of the same property. (3) Sell or give away the property before your death and RECORD the deed. A TOD deed can only affect property that you own when you die.

IF I CREATE A NEW TOD DEED, TRUST, OR OTHER ESTATE PLANNING DOCUMENT THAT DISPOSES OF THE SAME PROPERTY, DOES THAT AUTOMATICALLY REVOKE A RECORDED TOD DEED? No. If you want the new document to revoke a recorded TOD deed, the new document MUST be signed and dated after the deed you wish to revoke and it MUST be RECORDED. To avoid any doubt you may wish to RECORD a TOD deed revocation form before creating the new instrument.

I AM BEING PRESSURED TO COMPLETE THIS FORM.

WHAT SHOULD I DO? Do NOT complete this form unless you freely choose to do so. If you are being pressured to dispose of your property in a way that you do not want, you may want to alert a family member, friend, the district

attorney, or a senior service agency.
DO I NEED TO TELL MY BENEFICIARY ABOUT THE TOD DEED? No. But, secrecy can cause later complications and might make it easier for others to commit fraud.

WHAT DOES MY BENEFICIARY NEED TO DO WHEN I DIE? Your beneficiary must RECORD evidence of your death (Prob. Code a7 210), and file a change in ownership notice (Rev. & Tax. Code a7 480). If you received Medi-Cal benefits, your beneficiary must notify the State Department of Health Care Services of your death and provide a copy of your death certificate (Prob. Code a7 215).

WHAT IF I NAME MORE THAN ONE BENEFICIARY? Your beneficiaries will become co-owners in equal shares. If you want a different result, you should not use this form. You MUST name your beneficiaries individually. You MAY NOT use general terms to describe beneficiaries, such as "my children."

WHAT IF A BENEFICIARY DIES BEFORE I DO? You should probably create and RECORD a new deed. Otherwise, the property will transfer according to the general rules on failed gifts, which may not meet your needs. See Prob. Code a7a7 21110-21111.

WHAT IS THE EFFECT OF A TOD DEED ON PROPERTY THAT I OWN AS JOINT TENANCY OR COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP? If you are the first joint tenant or spouse to die, the deed is VOID and has no effect. The property transfers to your joint tenant or surviving spouse and not according to this deed. If you are the last joint tenant or spouse to die, the deed takes effect and controls the ownership of your property when you die. If you do not want these results, do not use this form. The deed does NOT transfer the share of a co-owner of the property. Any co-owner who wants to name a TOD beneficiary must complete and RECORD a SEPARATE deed.

CAN I ADD OTHER CONDITIONS ON THE FORM? No. If you do, your beneficiary may need to go to court to clear title.

IS PROPERTY TRANSFERRED BY THE TOD DEED SUBJECT TO MY DEBTS? Yes.

DOES THE TOD DEED HELP ME TO AVOID GIFT AND ESTATE TAXES? No.

HOW DOES THE TOD DEED AFFECT PROPERTY TAXES? The TOD deed has no effect on your property taxes until your death. At that time, property tax law applies as it would to any other change of ownership.

DOES THE TOD DEED AFFECT MY ELIGIBILITY FOR MEDI-CAL? No.

AFTER MY DEATH, WILL MY HOME BE LIABLE FOR REIMBURSEMENT OF THE STATE FOR MEDI-CAL EXPENDITURES? If your estate is subject to reimbursement, any property transferred by a

TOD deed will also be subject to reimbursement.

5644. A transferor may revoke a revocable transfer on death deed by an instrument in substantially the following form:

Revocation of
Revocable Transfer on Death (TOD) Deed
(California Probate Code Section 5600)
Recording Requested By:
When Recorded Mail This Deed To
Name:
Address:
Assessor's Parcel Number: Space Above For
Recorder's Use

This deed revocation is exempt from documentary transfer tax under Rev. & Tax. Code a711930. This deed revocation is exempt from preliminary change of ownership report under Rev. & Tax. Code a7480.3.

IMPORTANT NOTICE: THIS FORM MUST BE RECORDED
This revocation form MUST be RECORDED before your death or it will not be effective. This revocation form only affects a transfer on death deed that YOU made. A transfer on death deed made by a co-owner of your property is not affected by this revocation form. A co-owner who wants to revoke a transfer on death deed that he/she made must complete and RECORD a SEPARATE revocation form.

PROPERTY DESCRIPTION

Print the address or other legal description of the property affected by this revocation:

REVOCAATION

I revoke any TOD deed to transfer the described property that I executed before executing this form.

SIGNATURE AND DATE

Sign and print your name below:

Date _____

ACKNOWLEDGMENT OF NOTARY

State of California)
County of _____)

On _____ before me, (here insert name and title of the officer), personally appeared _____,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

CHAPTER 3. EFFECT

Article 1. General Provisions

5650. During the transferor's life, execution and recordation of a revocable transfer on death deed:

(a) Does not affect the ownership rights of the transferor, and the transferor or the transferor's agent or other fiduciary may convey, assign, contract, encumber, or otherwise deal with the property, and the property is subject to process of the transferor's creditors, as if no revocable transfer on death deed were executed or recorded.

(b) Does not create any legal or equitable right in the beneficiary, and the property is not subject to process of the beneficiary's creditors.

(c) Does not transfer or convey any right, title, or interest in the property.

5652. (a) A revocable transfer on death deed transfers all of the transferor's interest in the property to the beneficiary on the transferor's death.

(b) A revocable transfer on death deed may condition the beneficiary's right to the property on an intervening life estate, but may not create a future interest in a beneficiary.

(c) Property is transferred by a revocable transfer on death deed subject to any limitation on the transferor's interest that is of record at the transferor's death including, but not limited to, a lien, encumbrance, easement, lease, or other instrument affecting the transferor's interest, whether recorded before or after recordation of the revocable transfer on death deed. The holder of rights under that instrument may enforce those rights against the property notwithstanding its transfer by the revocable transfer on death deed.

(d) A revocable transfer on death deed transfers the property without covenant or warranty of title.

5654. (a) For the purpose of determination of eligibility for health care under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, execution and recordation of a revocable transfer on death deed is not a lifetime transfer of the property.

(b) For the purpose of a claim of the State Department of Health Care Services under Section 14009.5 of the Welfare and Institutions Code, property transferred by a revocable transfer on death deed is a part of the estate of the decedent, and the beneficiary is a recipient of the property by distribution or survival.

5656. For the purpose of application of the property taxation and documentary transfer tax provisions of the Revenue and Taxation Code:

(a) Execution and recordation of, or revocation of, a revocable transfer on death deed of real property is not a change in ownership of the property and does not require declaration or payment of a documentary transfer tax or filing of a preliminary change of ownership report.

(b) Transfer of real property on the death of the transferor by a revocable transfer on death deed is a change in ownership of the property.

Article 2. Other Instruments and Forms of Tenure

5660. If a revocable transfer on death deed recorded on or before 60 days after the date it was executed and another instrument both purport to dispose of the same property:

(a) If the other instrument is not recorded before the transferor's death, the revocable transfer on death deed is the operative instrument.

(b) If the other instrument is recorded before the transferor's death and makes a revocable disposition of the property, the later executed of the revocable transfer on death deed or the other instrument is the operative instrument.

(c) If the other instrument is recorded before the transferor's death and makes an irrevocable disposition of the property, the other instrument and not the revocable transfer on death deed is the operative instrument.

5664. If, at the time of the transferor's death, title to the property described in the revocable transfer on death deed is held in joint tenancy or as community property with right of survivorship, the revocable transfer on death deed is void. The transferor's interest in the property is governed by the right of survivorship and not by the revocable transfer on death deed.

5666. (a) Chapter 2 (commencing with Section 5010) of Part 1 applies to a revocable transfer on death deed of community property.

(b) For the purpose of application of Chapter 2 (commencing with Section 5010) of Part 1 to a revocable transfer on death deed of community property, written consent to the deed, revocation of written consent to the deed, or modification of the deed, is ineffective unless recorded within the time required by that chapter for execution or service of the written consent, revocation, or modification.

5668. A revocable transfer on death deed of community property with right of survivorship is subject to Section 5666, relating to a revocable transfer on death deed of community property.

Article 3. Creditors

5670. Notwithstanding any other statute governing priorities among creditors, a creditor of the transferor whose right is evidenced at the time of the transferor's death by an encumbrance or lien of record on property transferred by a revocable transfer on death deed has priority against the property over a creditor of the beneficiary, regardless of whether the beneficiary's obligation was created before or after the transferor's death and regardless of whether the obligation is secured or unsecured, voluntary or involuntary, recorded or unrecorded.

5672. Each beneficiary is personally liable to the extent provided in Section 5674 for the unsecured debts of the transferor. Any such debt may be enforced against the beneficiary in the same manner as it could have been enforced against the transferor if the transferor had not died. In any action based on the debt, the beneficiary may assert any defense, cross-complaint, or setoff that would have been available to the transferor if the transferor had not died. Nothing in this section permits enforcement of a claim that is

barred under Part 4 (commencing with Section 9000) of Division 7. Section 366.2 of the Code of Civil Procedure applies in an action under this section.

5674. (a) A beneficiary is not liable under Section 5672 if proceedings for the administration of the transferor's estate are commenced and the beneficiary satisfies the requirements of Section 5676.

(b) The aggregate of the personal liability of a beneficiary under Section 5672 shall not exceed the sum of the following:

(1) The fair market value at the time of the transferor's death of the property received by the beneficiary pursuant to the revocable transfer on death deed, less the amount of any liens and encumbrances on the property at that time.

(2) The net income the beneficiary received from the property.

(3) If the property has been disposed of, interest on the fair market value of the property from the date of disposition at the rate payable on a money judgment. For the purposes of this paragraph, "fair market value of the property" has the same meaning as defined in paragraph (2) of subdivision (a) of Section 5676.

5676. (a) Subject to subdivisions (b), (c), and (d), if proceedings for the administration of the transferor's estate are commenced, each beneficiary is liable for:

(1) The restitution to the transferor's estate of the property the beneficiary received pursuant to the revocable transfer on death deed if the beneficiary still has the property, together with (A) the net income the beneficiary received from the property and (B) if the beneficiary encumbered the property after the transferor's death, the amount necessary to satisfy the balance of the encumbrance as of the date the property is restored to the estate.

(2) The restitution to the transferor's estate of the fair market value of the property if the beneficiary no longer has the property, together with (A) the net income the beneficiary received from the property prior to disposing of it and (B) interest from the date of disposition at the rate payable on a money judgment on the fair market value of the property. For the purposes of this paragraph, the "fair market value of the property" is the fair market value, determined as of the time of the disposition of the property, of the property the beneficiary received pursuant to the revocable transfer on death deed, less the amount of any liens and encumbrances on the property at the time of the transferor's death.

(b) Subject to subdivision (c), if proceedings for the administration of the transferor's estate are commenced and a beneficiary made a significant improvement to the property received by the beneficiary pursuant to the revocable transfer on death deed, the beneficiary is liable for whichever of the following the transferor's estate elects:

(1) The restitution of the property, as improved, to the estate of the transferor upon the condition that the estate reimburse the beneficiary for (A) the amount by which the improvement increases the fair market value of the property restored, determined as of the time of restitution, and (B) the amount paid by the beneficiary for principal and interest on any liens or encumbrances that were on the property at the time of the transferor's death.

(2) The restoration to the transferor's estate of the fair market value of the property, determined as of the time of the transferor's death, less the amount of any liens and encumbrances on the property at that time, together with interest on the net amount at the rate payable on a money judgment running from the time of the transferor's death.

(c) The property and amount required to be restored to the estate

under this section shall be reduced by any property or amount paid by the beneficiary to satisfy a liability under Section 5672.

(d) An action to enforce the liability under this section may be brought only by the personal representative of the estate of the transferor. Whether or not the personal representative brings an action under this section, the personal representative may enforce the liability only to the extent of the beneficiary's liability under Section 5672. The reasonable cost of proceeding under this section shall be reimbursed as an extraordinary service under Sections 10801 and 10811. Action under this section is optional. A personal representative is never required to act under this section.

(e) An action to enforce the liability under this section is forever barred three years after the transferor's death. The three-year period specified in this subdivision is not tolled for any reason. Nothing in this subdivision affects the requirements of Section 215, any law that may toll the limitations period for the commencement of a Medi-Cal estate recovery action, or the time for commencement of an action by the Department of Health Care Services under Section 14009.5 of the Welfare and Institutions Code.

CHAPTER 4. EFFECTUATION OF TRANSFER

5680. (a) The beneficiary may establish the fact of the transferor's death under the procedure provided in Chapter 2 (commencing with Section 210) of Part 4 of Division 2. For the purpose of this subdivision, the beneficiary is a person empowered by statute to act on behalf of the transferor or the transferor's estate within the meaning of Section 103526 of the Health and Safety Code.

(b) For the purpose of filing the change in ownership statement required by Section 480 of the Revenue and Taxation Code, the beneficiary is a transferee of real property by reason of death.

(c) For the purpose of giving the notice to the Director of Health Care Services provided for in Section 215, the beneficiary is a beneficiary of the transferor.

(d) The beneficiary is liable to the transferor's estate for prorated estate and generation-skipping transfer taxes to the extent provided in Division 10 (commencing with Section 20100).

5682. If both of the following conditions are satisfied, a person dealing with a beneficiary of a revocable transfer on death deed of real property shall have the same rights and protections as the person would have if the beneficiary had been named as a distributee of the property in an order for distribution of the transferor's estate that had become final:

(a) The person acted in good faith and for a valuable consideration.

(b) An affidavit of death was recorded for the property under Chapter 2 (commencing with Section 210) of Part 4 of Division 2.

CHAPTER 5. CONTEST

5690. (a) The transferor's personal representative or an interested person may, under Part 19 (commencing with Section 850) of Division 2, contest the validity of a transfer of property by a revocable transfer on death deed.

(b) The proper county for a contest proceeding is the proper county for proceedings concerning administration of the transferor's estate, whether or not proceedings concerning administration of the transferor's estate have been commenced at the time of the contest.

(c) On commencement of a contest proceeding, the contestant may

record a lis pendens in the county in which the revocable transfer on death deed is recorded.

5692. (a) Except as provided in Section 5696, a contest proceeding may not be commenced before the transferor's death.

(b) A contest proceeding shall be commenced within the earlier of the following times:

(1) Three years after the transferor's death.

(2) One year after the beneficiary establishes the fact of the transferor's death under the procedure provided in Chapter 2 (commencing with Section 210) of Part 4 of Division 2.

5694. If the court in a contest proceeding determines that a transfer of property by a revocable transfer on death deed is invalid, the court shall order the following relief:

(a) If the proceeding was commenced and a lis pendens was recorded within 120 days after the transferor's death, the court shall void the deed and order transfer of the property to the person entitled to it.

(b) If the proceeding was not commenced and a lis pendens was not recorded within 120 days after the transferor's death, the court shall grant appropriate relief but the court order shall not affect the rights in the property of a purchaser or encumbrancer for value and in good faith acquired before commencement of the proceeding and recordation of a lis pendens.

5696. Nothing in this chapter limits the application of principles of fraud, undue influence, duress, mistake, or other invalidating cause to a transfer of property by a revocable transfer on death deed or to the invalidation of a revocable transfer on death deed that has been recorded during the lifetime of the prospective transferor.

SEC. 16. Section 13111 of the Probate Code is amended to read:

13111. (a) Subject to the provisions of this section, if proceedings for the administration of the decedent's estate are commenced in this state, or if the decedent's personal representative has consented to the payment, transfer, or delivery of the decedent's property under this chapter and the personal representative later requests that the property be restored to the estate, each person to whom payment, delivery, or transfer of the decedent's property is made under this chapter is liable for:

(1) The restitution of the property to the estate if the person still has the property, together with (A) the net income the person received from the property and (B) if the person encumbered the property after it was delivered or transferred to the person, the amount necessary to satisfy the balance of the encumbrance as of the date the property is restored to the estate.

(2) The restitution to the estate of the fair market value of the property if the person no longer has the property, together with (A) the net income the person received from

the property and (B) interest on the fair market value of the property from the date of disposition at the rate payable on a money judgment. For the purposes of this subdivision, the "fair market value of the property" is the fair market value, determined as of the time of the disposition of the property, of the property paid, delivered, or transferred to the person under this chapter, less any liens and encumbrances on the property at that time.

(b) Subject to subdivision (c) and subject to any additional liability the person has under Sections 13109 to 13112, inclusive, if the person fraudulently secured the payment, delivery, or transfer of the decedent's property under this chapter, the person is liable under this section for restitution to the decedent's estate of three

times the fair market value of the property. For the purposes of this subdivision, the "fair market value of the property" is the fair market value, determined as of the time the person liable under this subdivision presents the affidavit or declaration under this chapter, of the property paid, delivered, or transferred to the person under this chapter, less the amount of any liens and encumbrances on the property at that time.

(c) The property and amount required to be restored to the estate under this section shall be reduced by any property or amount paid by the person to satisfy a liability under Section 13109 or 13110.

(d) An action to enforce the liability under this section may be brought only by the personal representative of the estate of the decedent. Whether or not the personal representative brings an action under this section, the personal representative may enforce the liability only to the extent necessary to protect the interests of the heirs, devisees, and creditors of the decedent.

(e) An action to enforce the liability under this section is forever barred three years after presentation of the affidavit or declaration under this chapter to the holder of the decedent's property, or three years after the discovery of the fraud, whichever is later. The three-year period specified in this subdivision is not tolled for any reason.

(f) In the case of a nondomiciliary decedent, restitution under this section shall be made to the estate in an ancillary administration proceeding.

SEC. 17. Section 13206 of the Probate Code is amended to read:

13206. (a) Subject to subdivisions (b), (c), (d), and (e), if proceedings for the administration of the decedent's estate are commenced, or if the decedent's personal representative has consented to use of the procedure provided by this chapter and the personal representative later requests that the property be restored to the estate, each person who is designated as a successor of the decedent in a certified copy of an affidavit issued under Section 13202 is liable for:

(1) The restitution to the decedent's estate of the property the person took under the certified copy of the affidavit if the person still has the property, together with (A) the net income the person received from the property and (B) if the person encumbered the property after the certified copy of the affidavit was issued, the amount necessary to satisfy the balance of the encumbrance as of the date the property is restored to the estate.

(2) The restitution to the decedent's estate of the fair market value of the property if the person no longer has the property, together with (A) the net income the person received from the property prior to disposing of it and (B) interest from the date of disposition at the rate payable on a money judgment on the fair market value of the property. For the purposes of this paragraph, the "fair market value of the property" is the fair market value, determined as of the time of the disposition of the property, of the property the person took under the certified copy of the affidavit, less the amount of any liens and encumbrances on the property at the time the certified copy of the affidavit was issued.

(b) Subject to subdivision (d), if the person fraudulently executed or filed the affidavit under this chapter, the person is liable under this section for restitution to the decedent's estate of three times the fair market value of the property. For the purposes of this subdivision, the "fair market value of the property" is the fair market value, determined as of the time the certified copy of the affidavit was issued, of the property the person took under the certified copy of the affidavit, less the amount of any liens and

encumbrances on the property at that time.

(c) Subject to subdivision (d), if proceedings for the administration of the decedent's estate are commenced and a person designated as a successor of the decedent in a certified copy of an affidavit issued under Section 13202 made a significant improvement to the property taken by the person under the certified copy of the affidavit in the good faith belief that the person was the successor of the decedent to that property, the person is liable for whichever of the following the decedent's estate elects:

(1) The restitution of the property, as improved, to the estate of the decedent upon the condition that the estate reimburse the person making restitution for (A) the amount by which the improvement increases the fair market value of the property restored, determined as of the time of restitution, and (B) the amount paid by the person for principal and interest on any liens or encumbrances that were on the property at the time the certified copy of the affidavit was issued.

(2) The restoration to the decedent's estate of the fair market value of the property, determined as of the time of the issuance of the certified copy of the affidavit under Section 13202, less the amount of any liens and encumbrances on the property at that time, together with interest on the net amount at the rate payable on a money judgment running from the date of the issuance of the certified copy of the affidavit.

(d) The property and amount required to be restored to the estate under this section shall be reduced by any property or amount paid by the person to satisfy a liability under Section 13204 or 13205.

(e) An action to enforce the liability under this section may be brought only by the personal representative of the estate of the decedent. Whether or not the personal representative brings an action under this section, the personal representative may enforce the liability only to the extent necessary to protect the interests of the heirs, devisees, and creditors of the decedent.

(f) An action to enforce the liability under this section is forever barred three years after the certified copy of the affidavit is issued under Section 13202, or three years after the discovery of the fraud, whichever is later. The three-year period specified in this subdivision is not tolled for any reason.

SEC. 18. Section 13562 of the Probate Code is amended to read:

13562. (a) Subject to subdivisions (b), (c), and (d), if proceedings for the administration of the decedent's estate are commenced, the surviving spouse is liable for:

(1) The restitution to the decedent's estate of the decedent's property if the surviving spouse still has the decedent's property, together with (A) the net income the surviving spouse received from the decedent's property and (B) if the surviving spouse encumbered the decedent's property after the date of death, the amount necessary to satisfy the balance of the encumbrance as of the date the decedent's property is restored to the estate.

(2) The restitution to the decedent's estate of the fair market value of the decedent's property if the surviving spouse no longer has the decedent's property, together with (A) the net income the surviving spouse received from the decedent's property prior to disposing of it and (B) interest from the date of disposition at the rate payable on a money judgment on the fair market value of the decedent's property. For the purposes of this paragraph, the "fair market value of the decedent's property" is the fair market value of the decedent's property, determined as of the time of the disposition of the decedent's property, less the amount of any liens and encumbrances on the decedent's property at the time of the decedent's

death.

(b) Subject to subdivision (c), if proceedings for the administration of the decedent's estate are commenced and the surviving spouse made a significant improvement to the decedent's property in the good faith belief that the surviving spouse was the successor of the decedent to the decedent's property, the surviving spouse is liable for whichever of the following the decedent's estate elects:

(1) The restitution of the decedent's property, as improved, to the estate of the decedent upon the condition that the estate reimburse the surviving spouse for (A) the amount by which the improvement increases the fair market value of the decedent's property restored, valued as of the time of restitution, and (B) the amount paid by the surviving spouse for principal and interest on any liens or encumbrances that were on the decedent's property at the time of the decedent's death.

(2) The restoration to the decedent's estate of the fair market value of the decedent's property, valued as of the time of the decedent's death, excluding the amount of any liens and encumbrances on the decedent's property at that time, together with interest on the net amount at the rate payable on a money judgment running from the date of the decedent's death.

(c) The property and amount required to be restored to the estate under this section shall be reduced by any property or amount paid by the surviving spouse to satisfy a liability under Chapter 3 (commencing with Section 13550).

(d) An action to enforce the liability under this section may be brought only by the personal representative of the estate of the decedent. Whether or not the personal representative brings an action under this section, the personal representative may enforce the liability only to the extent necessary to protect the interests of the heirs, devisees, and creditors of the decedent.

(e) An action to enforce the liability under this section is forever barred three years after the death of the decedent. The three-year period specified in this subdivision is not tolled for any reason.

SEC. 19. (a) The California Law Revision Commission shall study the effect of California's revocable transfer on death deed set forth in Part 4 (commencing with Section 5600) of Division 5 of the Probate Code and make recommendations in this regard. The commission shall report all of its findings to the Legislature on or before January 1, ~~2017~~ 2016 .

(b) In the study required by subdivision (a), the commission shall address all of the following:

(1) Whether the revocable transfer on death deed is working effectively.

(2) Whether the revocable transfer on death deed should be continued.

(3) Whether the revocable transfer on death deed is subject to misuse or misunderstanding.

(4) What changes should be made to the revocable transfer on death deed or the law associated with the deed to improve its effectiveness and to avoid misuse or misunderstanding.

(5) Whether the revocable transfer on death deed has been used to perpetuate financial abuse on property owners and, if so, how the law associated with the deed should be changed to minimize this abuse.

