

Woodland Hills Tax & Estate Planning Counsel  
**2025 Year End Legislation Update: Select Trust and Estate Laws**

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December 4, 2025  
5:30pm - 6:00pm

# Speakers

Mara Mahana, Esq. is a Wealth Strategist and Senior Director at Syon Capital LLC in San Francisco. Formerly a practicing attorney for 20 years in the field of trusts and estates law, Mara works with high- and ultra-high net worth clients to review, develop, and consult on estate and wealth transfer plans, and works closely with clients to ensure their goals and objectives are aligned with their financial and wealth decisions. Mara is an Executive Committee Member of the CLA Trust and Estate Section (TEXCOM).

Kristin Yokomoto, Esq., is a partner at Baker & Hostetler LLP in the Orange County office. She practices in the areas of estate planning for high net worth clients, business succession planning, trust administration, and probate. Kristin focuses on tax and business planning for clients. She is a Legal Specialist in Estate Planning, Trust & Probate Law certified by the State Bar of California. Kristin is a Fellow of the American College of Trust and Estate Counsel (ACTEC), Executive Committee Member of the CLA Trust and Estate Section (TEXCOM), and Member of the Orange County Bar Association Professionalism & Ethics Committee.

# TEXCOM

One of the several important missions of the Executive Committee of the Trusts and Estates Section of the California Lawyers Association (“TEXCOM”) is to closely monitor and actively participate in the proposal and development of new laws that impact the field of trusts and estates. The 2025 California legislative session was the first year of a two-year cycle that extends through the end of the 2026 session.

During 2025, lawmakers sent hundreds of bills to Governor Gavin Newsom's desk. TEXCOM reviewed and analyzed every bill to determine which bills may be relevant to trust and estate practitioners. TEXCOM monitored, and sometimes commented on, the bills determined to be relevant as they proceeded through the legislative process. TEXCOM’s advocacy resulted in a bill being modified to remove the bill’s proposed personal liability of personal representatives and estate attorneys for not providing notice of a decedent’s death to the Department of Child Support Services.

Another mission of TEXCOM is to introduce bills through an Affirmative Legislative Proposal (ALP). In 2025, TEXCOM proposed two (2) ALPs. One bill created a new law that allows for virtual representation with respect to notification in trust proceedings under certain circumstances. The second bill amends the anti-ING law that became effective on January 1, 2023, to clarify that the definition of an incomplete gift nongrantor trust does not include a charitable remainder trust.

# GUARDIANSHIPS, CONSERVATORSHIPS AND INCAPACITY

## **Assembly Bill No. 495 - Family Preparedness Plan Act of 2025 (Rep. Rodriguez)**

- Amends Education Code section 234.7, Family Code sections 6550 and 6552, Probate Code sections 1502 and 2105, and adds Chapter 3.62 (commencing with section 1597.640) to Division 2 of the Health and Safety Code
- Response to immigration enforcement actions at schools and hospitals; intended to prevent family separation
- Requires schools and day care facilities to update policies to limit assistance with immigration enforcement, and to share updated policies with parents and guardians
- Prohibits schools and hospitals from sharing private personal and medical information with immigration authorities
- Requires judicial warrants for immigration enforcement in nonpublic areas of schools and hospital
- Expands the list of relatives permitted to execute caregiver authorization affidavit for school-related medical care
- Expands circumstances in which a person can nominate a guardian for a minor to include “absence” of parent
- Allows court to appoint a joint guardian to act if parent is temporarily unavailable to include an immigration-related administrative action

## **Assembly Bill No. 960 - Patient Visitation (Rep. Garcia)**

- Adds Health and Safety Code section 1261.1
- Existing law requires licensed health facilities to allow visitation for family members unless certain conditions are met
- New statute requires acute care hospitals to allow a patient with physical, intellectual, or developmental disabilities, cognitive impairment, including dementia, or another disability, to have a family or friend caregiver with them as needed, including outside standard visiting hours unless:
  - the hospital reasonably determines that the presence of a particular visitor would endanger the health or safety of the visitor, a patient, a member of the staff, or other visitor to the hospital, or would significantly disrupt the operations of the hospital; or
  - the delivery of medical care would be impeded by the presence of the family or friend caregiver

# **Additional Incapacity Bill**

**Assembly Bill No. 416 - Involuntary Commitment (Krell)**

# TRUST AND ESTATE ADMINISTRATION



## **Assembly Bill No. 565 - Representation of Trust Beneficiaries (Dixon)**

- Repeals and adds Probate Code Section 15804.
- Proposed by TEXCOM via an ALP, this bill allows for virtual representation for trust matters in California, joining 47 other states in having a virtual representation law.
- Virtual representation allows an individual's interests to be adequately represented in a matter by another person with substantially similar interests.
- A person with a substantially identical interest in the trust can receive notice, represent, and bind another individual who has no ability to represent themselves in the matter due to being a minor, an incapacitated person, a subsequently born person, or a person whose identity or location is unknown and not reasonably ascertainable (referred to as Minor/Incapacitated/Unborn/Unknown, or "MIUU" individuals).
- This section also allows fiduciaries to represent and bind others (including a parent as to minor, and later-born, children), subject to fiduciary duties and potential liability.
- NO form of representation is possible when the representor and representee have a conflict of interest with regard to that particular matter.
- Fiduciaries are not liable by acting in reliance on another's representation unless the fiduciary committed a breach of trust intentionally, with gross negligence, in bad faith, or with reckless indifference to the interests of a beneficiary.

## **Assembly Bill No. 565 - Representation of Trust Beneficiaries (Dixon), continued**

- The new statute allows current interest holders to grant consent, and receive notice, on behalf of his or her successors.
- Note that any individual with the present capacity to represent himself or herself may not be represented by another individual with a substantially identical interest (because anyone with capacity to represent himself or herself would not qualify as a MIUU).
- Practitioners should only take advantage of this new statute when it is clear that there is no conflict between the representor and representee, and should proceed with caution if there is any uncertainty as to the potential existence of a conflict.
- To the extent there is a conflict of interest, or other problematic situations arise, the option to appoint a guardian ad litem, or otherwise seek judicial guidance, should be strongly considered by practitioners.

## **Senate Bill No. 822 - Unclaimed Property: Digital Financial Assets (Becker)**

- Amends Code of Civil Procedure Sections 1501, 1520, 1532, 1533, and 1563, and adds Sections 1516.5 and 1568, relating to unclaimed property.
- This bill clarifies that digital financial assets are a form of intangible property subject to the Unclaimed Property Law.
- Any digital financial asset escheats to the state if unclaimed by the owner for more than 3 years from either the date the owner last exercised ownership over the asset, or the date a written or electronic communication to the owner is returned undelivered by the U.S. Postal Service or email.
- The running of the 3-year period ceases immediately upon either the exercise of an act of ownership in the digital financial asset account or documented written, oral, or electronic communication with the account holder.
- The holder of the digital financial asset subject to escheat is required to attempt to contact the owner by sending a notice via certified mail, return receipt requested, or electronically if the owner has consented to electronic service.
- This notice must be sent between 6 to 12 months before the time the digital financial asset becomes reportable to the State Controller.

## **Senate Bill No. 822 - Unclaimed Property: Digital Financial Assets (Becker) , continued**

- Escheated digital financial assets delivered to the State Controller shall be sold (converted to currency) between 18 and 20 months after the holder files its report with the State Controller.
- If a person makes a valid claim before the digital financial assets have been sold, then the person may recover the digital financial assets; but if the digital financial assets have already been converted to currency, the person will be entitled to receive the net proceeds received by the State Controller.
- The statute now permits the State Controller to decline to take unclaimed digital financial assets if, in its discretion, it determines that it is not in the best interest of the state to take custody of the asset. This determination must be made in writing to the holder within 120 days of receipt of the holder's report.

# **Additional Administration Bills**

**Assembly Bill No. 1521 - Judiciary Omnibus (Committee on Judiciary)**

**Senate Bill No. 255 - County Recorders: Notification (Seyarto)**

**Senate Bill No. 293 - Real Property Tax: Transfer of Base Year Value: Generational Transfers: Wildfire (Pérez)**

# ESTATE PLANNING

## **Senate Bill No. 403 - End of Life Option Act: Sunset (Blakespear)**

This bill repeals section 443.215 of the Health and Safety Code, relating to public health. This bill removes the End of Life Option Act sunset (“EOLOA”) date of January 1, 2031, making the law permanent. The EOLOA, which has been in effect since June 9, 2016, authorizes a process for terminally ill adults living in California to obtain and self-administer drugs for medical aid-in-dying. A “terminal disease” is defined as an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgement, result in death within six (6) months; and “self-administer” is defined as a qualified individual’s affirmative, conscious, and physical act of administering and ingesting the aid-in-dying drug.

In 2015, the Legislature passed the EOLOA to give mentally capable, terminally ill Californians the right to request aid-in-dying drugs from their doctor. This allows the person to have an end-of-life experience aligned with their beliefs and values. According to the author of the bill, since the EOLOA went into effect, a total of 4,287 people have died following ingestion of aid-in-dying medication. The sunset that was looming could have caused undue stress and fear in people diagnosed with a disease that will - in several years - be the cause of their death. Nine years of data show the law is working as intended and MAiD is being safely practiced in California. There have been no reported problems or abuses. By permanently removing the January 1, 2031 sunset, patients, advocates, medical providers, and faith leaders who rely on it will no longer need to worry about access to MAiD being removed.

## **Senate Bill No. 376 - Incomplete Gift Nongrantor Trusts: Personal Income Tax Law (Valladares)**

As proposed by TEXCOM on behalf of the Trusts and Estates Section of the California Lawyers Association through an ALP, which was co-sponsored by the Taxation Section of the California Lawyers Association, this bill amends section 17082 of the Revenue and Taxation Code.

Section 17082, which was enacted on July 10, 2023, and became retroactively effective as of January 1, 2023, imposes a tax on the taxable income from an incomplete gift nongrantor trust ("ING Trust"), which must be reported on the grantor's California income tax return. An ING Trust is defined as a trust that meets both of the following conditions: (1) the trust does not qualify as a grantor trust under Subpart E of Part I of Subchapter J of Chapter 1 of Subtitle A of the IRC, relating to grantors and others treated as substantial owners, and (2) the qualified taxpayer's transfer of assets to the trust is treated as an incomplete gift under IRC section 2511, relating to transfers in general.

There was some confusion among practitioners about whether charitable remainder trusts were subject to the law. This bill amends the definition of an ING Trust to specifically exclude a trust, or portion of a trust, that qualifies as a charitable remainder trust, as specified. This does not constitute a change in, but is declaratory of, existing law. This is consistent with the position of the Franchise Tax Board.



# **Additional Estate Planning Bill**

**Assembly Bill No. 245 Property Taxation: Application of Base Year Value: Disaster Relief (Gipson)**

# LITIGATION

## **Assembly Bill No. 1523 - Court-Ordered Mediation (Judiciary Committee)**

- Amends C.C.P. section 1775.5
- Effective January 1, 2027
- Increases the amount in controversy limit for court ordered mediation in civil actions from \$50,000 to \$75,000
  - All conditions must be met:
    - Set for trial
    - At least one party is interested in mediation
    - No ongoing discovery disputes
    - Will stipulate to mutually agreed mediator
    - Ability to do remote mediation

## **Assembly Bill No. 515 - Statement of Decision (Rep. Pacheco)**

- Amends, repeals, and adds C.C.P sections 632 and 664
- Effective January 1, 2027
- Changes procedure for requesting statement of decision in bench trials
  - In writing or orally (if trial is being transcribed) before the matter is submitted for decision **in all cases**
- Authorizes the court to issue a written statement of decision even if one has not been requested
- Authorizes the court to order a party to prepare a draft statement of decision
- Requires the Judicial Council to adopt or amend rules of court necessary to implement the provisions and to prepare a form parties may use to request a statement of decision
- Extends deadline for court clerk to enter judgment after statement of decision becomes final from 24 hours to 30 days

# **Additional Litigation Bills**

**Senate Bill No. 66 - Civil Discovery (Umberg)**

**Assembly Bill No. 711 - Civil Actions: Shorthand Reporters (Chen)**

**Assembly Bill No. 1524 - Courts: Fees (Committee on Judiciary)**

**Assembly Bill No. 561 - Restraining Orders (Quirk-Silva)**

**Senate Bill No. 85 - Civil Actions: Service of Summons (Umberg)**

**Assembly Bill No. 251 - Elders and Dependent Adults: Abuse or Neglect (Kalra)**

**Assembly Bill No. 747 - Service of Process Accountability, Reform and Equity (SPARE) Act (Kalra)**

# Miscellaneous Bills

**Assembly Bill No. 1525 - Attorneys: discipline: sensitive services (Committee on Judiciary)**

**Senate Bill No. 37 - Attorneys: unlawful solicitations and advertisements - Umberg**

**Senate Bill No. 253 - State Bar of California (Umberg)**