

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Probate and Mental Health Advisory Committee  
Hon. Don Edward Green, Chair  
Douglas C. Miller, Committee Counsel,  
415-865-7535, douglas.miller@jud.ca.gov

DATE: January 16, 2008

SUBJECT: Probate: Collection of the Graduated Filing Fee in Decedents' Estates (amend Cal. Rules of Court, rules 7.151 and 7.552, adopt rule 7.553; revise Judicial Council form DE-111)  
(Action Required)

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Issue Statement

Government Code section 70650 establishes the filing fee for commencing a decedent's estate as a graduated fee based on the size of the estate to be administered in the proceeding. Under the law in effect until January 1, 2008, the entire filing fee was to be paid in full by the petitioner who filed the first *Petition for Probate* in the proceeding, based on the petitioner's estimate of the value of the estate given in the petition.

Rule 7.552 of the California Rules of Court provides for an adjustment in the graduated filing fee to be made at the time of the final accounting in the estate based on a comparison of the estimated value of the estate with its actual appraised value. Rule 7.151 provides for reimbursement by the estate of the graduated filing fee paid in excess of the minimum fee by an unsuccessful first petitioner.

Legislation effective January 1, 2008, has changed the method of payment of the graduated filing fee in decedents' estates under section 70650.<sup>1</sup> This change will require revision of rules 7.151 and 7.552, adoption of a new rule 7.553 to govern estates commenced after the effective date of the amended section 70650, and revision of the *Petition for Probate* (form DE-111).

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<sup>1</sup> Stats. 2007, ch. 738 (Assem. Bill 1248), § 30.

### Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective March 1, 2008, amend rules 7.151 and 7.552 of the California Rules of Court, adopt rule 7.553, and revise the *Petition for Probate* (form DE-111), to implement the 2007 amendment of Government Code section 70650.

The text of revised rules 7.151 and 7.552 and new rule 7.553 is attached at pages 5–12.

A copy of revised form DE-111 is attached at pages 13–16.

The text of amended Government Code section 70650 is attached at pages 17–19.

### Rationale for Recommendation

Amended Government Code section 70650 no longer requires payment of the graduated filing fee above the minimum at the time of commencement of the proceeding by the filing of the first *Petition for Probate* in the case, based on an estimate of the size of the estate in the petition. Under the amended code section, only the minimum fee of \$320 is payable at the time of filing the petition. The balance of the filing fee is now payable by the appointed general personal representative of the estate—the executor or administrator—no later than the date the representative’s final account is filed. The graduated fee is based on the actual appraised value of the estate; an estimate of the estate’s value is no longer required when the *Petition for Probate* is filed to commence the proceeding.

### *Rule 7.151*

Rule 7.151 establishes a duty by the general personal representative of an estate to reimburse the graduated filing fee in excess of the minimum fee paid by an unsuccessful first-filing petitioner at the time that petitioner commenced the proceeding. Under amended section 70650, that duty will no longer be required for estates commenced on or after January 1, 2008.<sup>2</sup> Rule 7.151 would be amended to clarify that the rule will apply only to estates commenced before that date.<sup>3</sup> Estates commenced after the effective date of the graduated filing fee, August 18, 2003,<sup>4</sup> and before January 1, 2008, would continue to be governed by the provisions of rule 7.151.

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<sup>2</sup> The amendment of Government Code section 70650 is effective January 1, 2008. Under Probate Code section 3(d), the amended section applies to estates commenced on or after that date. An estate proceeding is commenced by the filing of the first *Petition for Probate* in the case.

<sup>3</sup> This rule and rule 7.552 would also be amended to show the names of Judicial Council forms in italics.

<sup>4</sup> See Stats. 2003, ch. 159 (Assembly Bill 1759), §§ 9, 27.

### *Rule 7.552*

Rule 7.552 requires a personal representative of an estate that was subject to the graduated filing fee at commencement to (1) determine the graduated filing fee that would have been payable on the actual appraised value of the estate (the corrected filing fee), (2) calculate the difference between that amount and the graduated filing fee actually paid based on the estimate contained in the *Petition for Probate* at commencement of the case (the estimated filing fee), (3) pay any balance due if the estimated fee is less than the corrected fee, or (4) seek a refund of any overpayment balance if the corrected fee is less than the estimated fee. This calculation will no longer be required for estates commenced on or after January 1, 2008.

Rule 7.552 would be amended to clarify that it applies only to estates commenced after August 18, 2003, and before January 1, 2008. Minor stylistic changes would also be made in the rule. Most prominent among these is a revised rule 7.552(e), concerning adjustments to the corrected filing fee to be made in insolvent estates. The subdivision would be restated in two sentences instead of in one long sentence. No change would be made in the operation and intended effect of the subdivision.

### *Rule 7.553*

Proposed new rule 7.553 would apply to estates commenced on or after January 1, 2008. The rule would restate the portions of rule 7.552 that remain material for those estates after the amendment of Government Code section 70650 but would delete the determinations and calculations stated above as no longer necessary for those estates.

### *Form DE-111*

The *Petition for Probate* would be revised by deleting item 3 on page 1, the estimated value of the estate for filing fee purposes, and renumbering the following items accordingly. The space saved by this deletion would enlarge the space available for listing the names and addresses of the decedent's heirs, nominated executors, and beneficiaries on page 4 of the form.

The form is proposed for an effective date of March 1, 2008. The Invitation to Comment described a form with an effective date of July 1, 2008, but the earlier date would be preferable to clarify to courts and petitioners as soon as possible after January 1, 2008, that petitioners commencing estate proceedings no longer need to estimate the value of their estates for filing fee purposes and court staff need not calculate graduated filing fees when a *Petition for Probate* is presented for filing.

### Alternative Actions Considered

Because of the changes made by the 2007 legislation in Government Code section 70650, no alternatives to amendment of the rules of court and revision of the *Petition for Probate* were considered.

### Comments From Interested Parties

This proposal was circulated for comment in the winter cycle to a list of judicial officers, probate examiners and attorneys, other court staff interested in probate matters and assistance to unrepresented persons, probate-interest sections of the State Bar and local bar associations, and representatives of other organizations interested in probate matters generally, in addition to court executive officers, presiding judges, individuals, and organizations with a more general interest in court-related issues.

Ten comments were received. Nine commentators approved the proposal without recommending changes. One commentator, Mr. John V. Hager, an attorney from Santa Barbara, opposed the proposal but made no specific comments about the rules or the form included in it. A chart containing the comments and the responses of the advisory committee is attached at pages 20–22.

### Implementation Requirements and Costs

Amendment and adoption of the rules of court and revision of form DE-111 described in this proposal will result in the usual costs associated with the revision or adoption of any rule of court and the revision and distribution of any Judicial Council form.

Rules 7.151 and 7.552 of the California Rules of Court are amended, and rule 7.553 is adopted, effective March 1, 2008, to read:

1 **Rule 7.151. Reimbursement of graduated filing fee by successful subsequent**  
2 **petitioner**

3  
4 **(a) Duty to reimburse**

5  
6 In decedents' estates commenced on or after August 18, 2003, and before  
7 January 1, 2008, a general personal representative appointed on a *Petition for*  
8 *Probate* (form DE-111) that was not the first-filed petition for appointment  
9 of a general personal representative in the proceeding must reimburse the  
10 unsuccessful petitioner on the first-filed petition for a portion of the filing fee  
11 paid by the unsuccessful petitioner.

12  
13 **(b) Amount of reimbursement**

14  
15 The reimbursement required under this rule is in the amount of:

16  
17 (1) The filing fee paid by the unsuccessful petitioner in excess of the filing  
18 fee that would have been payable on that date for a *Petition for Probate*  
19 filed to commence administration of an estate valued at less than  
20 \$250,000, less

21  
22 (2) The unpaid amount of any costs or sanctions awarded against the  
23 unsuccessful petitioner in favor of the party that sought the personal  
24 representative's appointment in the proceeding.

25  
26 **(c) When reimbursement payable**

27  
28 The personal representative must make the reimbursement payment required  
29 under this rule in cash and in full no later than the date the *Inventory and*  
30 *Appraisal* (form DE-160/GC-040) is due under Probate Code section  
31 8800(b), including additional time allowed by the court under that provision.

32  
33 **(d) Payment from estate funds**

34  
35 The reimbursement payment under this rule is an authorized expense of  
36 administration and may be made from estate funds without a prior court  
37 order.

1 (e) **Receipt from unsuccessful petitioner**

2  
3 The unsuccessful petitioner must give ~~it's~~ a signed receipt for the  
4 reimbursement payment made under this rule.  
5

6 (f) **Personal representative's right to claim refund**

7  
8 A personal representative that is required to but fails to make the  
9 reimbursement payment under this rule may not claim a refund of the  
10 difference between the estimated filing fee and the corrected filing fee under  
11 rule 7.552(c).  
12

13 (g) **Petitioner on dismissed *Petition for Probate***

14  
15 A petitioner that is eligible to receive a refund of filing fee for a dismissed  
16 *Petition for Probate* under rule 7.552(d) is not an unsuccessful petitioner  
17 within the meaning of this rule.  
18

19 **Rule 7.552. Graduated filing fee adjustments for estates commenced on or**  
20 **after August 18, 2003, and before January 1, 2008**

21  
22 This rule applies to decedents' estate proceedings commenced on or after August  
23 18, 2003, and before January 1, 2008. Rule 7.553 applies to decedents' estate  
24 proceedings commenced on or after January 1, 2008.  
25

26 (a) **Separate schedule for graduated fee information**

27  
28 The final account or report filed in every decedent's estate proceeding  
29 commenced on or after August 18, 2003, and before January 1, 2008, must  
30 include a separate schedule showing the following information:  
31

- 32 (1) The name of each petitioner on the first-filed *Petition for Probate* (form  
33 DE-111) in the proceeding;  
34  
35 (2) The date the first-filed *Petition for Probate* was filed in the proceeding;  
36  
37 (3) The estimated value of the estate shown in item 3, "estimated value of  
38 the estate for filing fee purposes," of the first-filed *Petition for Probate*  
39 in the proceeding;  
40  
41 (4) The filing fee paid by or for the petitioner on the first-filed *Petition for*  
42 *Probate* in the proceeding; and  
43

- 1 (5) The following information from the Inventories filed in the  
2 proceeding:  
3
- 4 (A) The date each partial, supplemental, final, or corrected *Inventory*  
5 *and Appraisal* (form DE-160/GC-040) was filed;  
6
- 7 (B) The total appraised value of the assets of the estate shown in each  
8 filed partial, supplemental, or final *Inventory and Appraisal*;  
9
- 10 (C) Changes in the appraised value of the assets of the estate shown in  
11 each filed corrected *Inventory and Appraisal*; and  
12
- 13 (D) The combined total appraised value of the estate shown in all filed  
14 partial, supplemental, final, and corrected Inventories ~~and~~  
15 ~~Appraisals~~;  
16
- 17 (6) A statement of the amount of filing fee that would have been payable  
18 under Government Code section ~~26827~~ 70650, as amended effective on  
19 the date the first-filed *Petition for Probate* was filed in the proceeding,  
20 if the total actual appraised value of the estate had been used as the  
21 estimated value for filing fee purposes (the “corrected filing fee”);  
22
- 23 (7) Calculation of the difference between the estimated filing fee paid  
24 under Government Code section ~~26827~~ 70650 on filing the first  
25 *Petition for Probate* in the proceeding (the “estimated filing fee”) and  
26 the “corrected filing fee,” as determined under (6) and subdivision (e)  
27 of this rule; and  
28
- 29 (8) The following information concerning filing fee reimbursement  
30 payments made by a personal representative in the proceeding under  
31 rule 7.151:  
32
- 33 (A) The amount of each payment;  
34
- 35 (B) The date each payment was made; and  
36
- 37 (C) The name, address, and telephone number of the payee and of any  
38 attorney of record for the payee in the proceeding.

1 (b) **If estimated filing fee less than corrected filing fee**  
2

3 If the estimated filing fee is less than the corrected filing fee, as determined  
4 under (a) and (e), the petition filed with the final account or report must  
5 allege that the difference between them has been paid to the clerk of the  
6 court. A copy of the clerk's receipt for the payment, and, if applicable, a  
7 receipt or other evidence satisfactory to the court of payment of the  
8 reimbursement required under rule 7.151, must be attached as an exhibit to  
9 the account or report.  
10

11 (c) **If estimated filing fee more than corrected filing fee**  
12

13 (1) Subject to the provisions of rule 7.151, if the estimated filing fee is  
14 more than the corrected filing fee, as determined under (a) and (e), the  
15 personal representative of the decedent's estate is eligible under this  
16 subdivision to receive a refund of the difference between them, without  
17 interest.  
18

19 (2) The personal representative must apply to the court for the refund, in  
20 accordance with the court's local rules and practices for such payments.  
21

22 (3) Unless authorized to retain a reserve against closing expenses that  
23 expressly is to include the court's refund payment after the personal  
24 representative's discharge, the personal representative must not apply  
25 for a discharge while an application for refund of filing fee under this  
26 subdivision is pending and before the court's refund payment is  
27 received.  
28

29 (d) **Refund on voluntarily dismissed *Petition for Probate***  
30

31 (1) A petitioner that files a *Petition for Probate* on or after August 18,  
32 2003, and voluntarily dismisses the petition at any time within 90 days  
33 after it is filed and before an order granting or denying the petition is  
34 filed, is eligible under this subdivision to receive a refund, without  
35 interest, of all filing fees paid in excess of the filing fees that would  
36 have been payable on the original filing date for a *Petition for Probate*  
37 of an estate valued at less than \$250,000.  
38

39 (2) The petitioner on a dismissed *Petition for Probate* under (1) must apply  
40 to the court for the refund, in accordance with the court's local rules  
41 and practices for such payments.  
42

1 (e) **Additional adjustment in corrected filing fee in insolvent estates**

2  
3 ~~If the expenses of administration must be proportionately reduced under~~  
4 ~~Probate Code section 11420 because the property in the estate is insufficient~~  
5 ~~to pay them in full, the court may approve a determination of the corrected~~  
6 ~~filing fee under this rule that reflects the proportionate reduction of those~~  
7 ~~expenses, provided that the corrected filing fee may not be reduced below~~  
8 ~~the minimum fee required by Government Code section 26827 on the date~~  
9 ~~the estimated fee was paid.~~

10  
11 If the property of the estate is insufficient to pay the expenses of  
12 administration in full, the court may approve a determination of the corrected  
13 filing fee that reflects the proportionate reduction of those expenses under  
14 Probate Code section 11420. The corrected filing fee may not be reduced  
15 below the minimum fee required by Government Code section 70650 on the  
16 date the estimated fee was paid.

17  
18 (f) **Sample schedule of graduated fee information**

19  
20 The schedule of graduated fee information required under (a) may be  
21 substantially as follows:

22 SCHEDULE \_\_

23  
24 Graduated Filing Fee Information

- 25  
26 1. The first-filed *Petition for Probate* in this proceeding was filed on [Date]  
27 by [name of each petitioner].  
28  
29 2. The estimated value of the estate for filing fee purposes shown on the  
30 first-filed *Petition for Probate* in this proceeding is \$\_\_\_\_\_  
31  
32 3. The filing fee paid by or for the petitioners on the first-filed *Petition for*  
33 *Probate* in this proceeding was \$\_\_\_\_\_.

34  
35 4. The following ~~Inventories and Appraisals~~ have been filed in this  
36 proceeding:

37 <b>Type</b>	38 <b>Date Filed</b>	39 <b>Appraised Value</b>
40 [Partial no. __]	[09/30/09]	\$
41 [Partial no. __]		\$
42 Final		\$
43 [Supplemental]		\$
[Correcting]		\$ (or \$)_____
Total appraised value of estate:		\$ _____

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5. Corrected Filing Fee:

Total appraised value of estate: \$

Filing fee as of the date in 1 above, based on total appraised value of estate: \$

Adjustment to reflect proportional reduction of expenses of administration for insolvent estate under Cal. Rules of Court, rule 7.552(e): (\$ \_\_\_\_\_)

Corrected Filing Fee: \$ \_\_\_\_\_

6. Difference between estimated and corrected filing fee:

Estimated filing fee from 3 above: \$

Corrected filing fee from 5 above: (\$ \_\_\_\_\_)

Difference: \$ (or \$) \_\_\_\_\_

7. Filing fee reimbursements under rule 7.151:

Payee(s)	Date Paid	Amount
[Name, address, and telephone number of each payee and attorney of record in the proceeding]	[10/25/09]	\$

**Rule 7.553 Graduated filing fee statements for decedents' estates commenced on or after January 1, 2008**

This rule applies to decedents' estates commenced on or after January 1, 2008.

**(a) Separate schedule for graduated fee information**

The final account or report or petition for final distribution filed in every decedent's estate proceeding commenced on or after January 1, 2008, must include a separate schedule showing the following information:

(1) The date the first-filed *Petition for Probate* (form DE-111) was filed in the proceeding; and

(2) The following information from the inventories filed in the proceeding:

1  
2 (A) The date each partial, supplemental, final, or corrected *Inventory*  
3 *and Appraisal* (form DE-160/GC-040) was filed;  
4

5 (B) The total appraised value of the assets of the estate shown in each  
6 filed partial, supplemental, or final *Inventory and Appraisal*;  
7

8 (C) Changes in the appraised value of the assets of the estate shown in  
9 each filed corrected *Inventory and Appraisal*; and  
10

11 (D) The combined total appraised value of the estate shown in all filed  
12 partial, supplemental, final, and corrected inventories.  
13

14 **(b) Adjustment in corrected filing fee in insolvent estates**  
15

16 If the property of the estate is insufficient to pay expenses of administration  
17 in full, the court may approve a determination of the corrected filing fee  
18 under this rule that reflects the proportionate reduction of those expenses  
19 under Probate Code section 11420. The corrected filing fee may not be  
20 reduced below the minimum fee required by Government Code section  
21 70650 on the date the estate was commenced.  
22

23 **(c) Sample schedule of filing fee information**  
24

25 The schedule of graduated fee information required under (a) may be  
26 substantially as follows:

27 SCHEDULE  
28

29 Graduated Filing Fee Information  
30

31 1. The first-filed *Petition for Probate* in this proceeding was filed on [Date]  
32 by [name of each petitioner].  
33

34 2. The following inventories have been filed in this proceeding:  
35

<u>Type</u>	<u>Date Filed</u>	<u>Appraised Value</u>
<u>[Partial no. __]</u>	<u>[09/30/09]</u>	<u>\$</u>
<u>[Partial no. __]</u>		<u>\$</u>
<u>Final</u>		<u>\$</u>
<u>[Supplemental]</u>		<u>\$</u>
<u>[Correcting]</u>		<u>\$ (or \$)</u>
<u>Total appraised value of estate:</u>		<u>\$</u>

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3. Graduated Filing Fee:

Total appraised value of estate: \_\_\_\_\_ \$

Filing fee as of the date in 1 above, based on  
total appraised value of estate: \_\_\_\_\_ \$

Adjustment to reflect proportional reduction of  
expenses of administration for insolvent estate  
under Cal. Rules of Court, rule 7.553(b): (\$ \_\_\_\_\_ )

Corrected Filing Fee: \_\_\_\_\_ \$

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>    TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	<b>FOR COURT USE ONLY</b>		
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:			
ESTATE OF <i>(Name)</i> : _____  <div style="text-align: right;">DECEDENT</div>			
<b>PETITION FOR</b> <input type="checkbox"/> <b>Probate of Will and for Letters Testamentary</b> <input type="checkbox"/> <b>Probate of Will and for Letters of Administration with Will Annexed</b> <input type="checkbox"/> <b>Letters of Administration</b> <input type="checkbox"/> <b>Letters of Special Administration</b> <input type="checkbox"/> <b>with general powers</b> <input type="checkbox"/> <b>Authorization to Administer Under the Independent Administration of Estates Act</b> <input type="checkbox"/> <b>with limited authority</b>	CASE NUMBER:  HEARING DATE:  <table style="width:100%; border: none;"> <tr> <td style="border: none; width: 60%;">DEPT.:</td> <td style="border: none; width: 40%;">TIME:</td> </tr> </table>	DEPT.:	TIME:
DEPT.:	TIME:		

1. Publication will be in *(specify name of newspaper)*:

- a.  Publication requested.
- b.  Publication to be arranged.

2. **Petitioner** *(name each)*:

**requests that**

- a.  decedent's will and codicils, if any, be admitted to probate.
- b.  *(name)*:  
       be appointed  
       (1)  executor  
       (2)  administrator with will annexed  
       (3)  administrator  
       (4)  special administrator     with general powers  
       and Letters issue upon qualification.
- c.  full     limited authority    be granted to administer under the Independent Administration of Estates Act.
- d. (1)  bond not be required for the reasons stated in item 3d.  
    (2)  \$ \_\_\_\_\_ bond be fixed. The bond will be furnished by an admitted surety insurer or as otherwise provided by law. *(Specify reasons in Attachment 2 if the amount is different from the maximum required by Prob. Code, § 8482.)*  
    (3)  \$ \_\_\_\_\_ in deposits in a blocked account be allowed. Receipts will be filed.  
       *(Specify institution and location):*

3. a. Decedent died on *(date)*: \_\_\_\_\_ at *(place)*:

- (1)  a resident of the county named above.
- (2)  a nonresident of California and left an estate in the county named above located at *(specify location permitting publication in the newspaper named in item 1)*:

b. Street address, city, and county of decedent's residence at time of death *(specify)*:

ESTATE OF <i>(Name)</i> :          <div style="text-align: right;">DECEDENT</div>	CASE NUMBER:          
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3. c. **Character and estimated value of the property of the estate** *(complete in all cases):*

- (1) Personal property: \$ \_\_\_\_\_
- (2) Annual gross income from
  - (a) real property: \$ \_\_\_\_\_
  - (b) personal property: \$ \_\_\_\_\_
- (3) **Subtotal** *(add (1) and (2))*: \$ \_\_\_\_\_
- (4) Gross fair market value of real property: \$ \_\_\_\_\_
- (5) (Less) Encumbrances: \$ ( \_\_\_\_\_ )
- (6) Net value of real property: \$ \_\_\_\_\_
- (7) **Total** *(add (3) and (6))*: \$ \_\_\_\_\_

- d. (1)  Will waives bond.  Special administrator is the named executor, and the will waives bond.
  - (2)  All beneficiaries are adults and have waived bond, and the will does not require a bond. *(Affix waiver as Attachment 3d(2).)*
  - (3)  All heirs at law are adults and have waived bond. *(Affix waiver as Attachment 3d(3).)*
  - (4)  Sole personal representative is a corporate fiduciary or an exempt government agency.
  - e. (1)  Decedent died intestate.
  - (2)  Copy of decedent's will dated: \_\_\_\_\_  codicil dated *(specify for each)*: \_\_\_\_\_  
are affixed as Attachment 3e(2).
- (Include typed copies of handwritten documents and English translations of foreign-language documents.)*
- The will and all codicils are self-proving (Prob. Code, § 8220).

f. **Appointment of personal representative** *(check all applicable boxes):*

- (1) Appointment of executor or administrator with will annexed:
  - (a)  Proposed executor is named as executor in the will and consents to act.
  - (b)  No executor is named in the will.
  - (c)  Proposed personal representative is a nominee of a person entitled to Letters. *(Affix nomination as Attachment 3f(1)(c).)*
  - (d)  Other named executors will not act because of  death  declination  
 other reasons *(specify)*: \_\_\_\_\_
- Continued in Attachment 3f(1)(d).
- (2) Appointment of administrator:
  - (a)  Petitioner is a person entitled to Letters. *(If necessary, explain priority in Attachment 3f(2)(a).)*
  - (b)  Petitioner is a nominee of a person entitled to Letters. *(Affix nomination as Attachment 3f(2)(b).)*
  - (c)  Petitioner is related to the decedent as *(specify)*: \_\_\_\_\_
- (3)  Appointment of special administrator requested. *(Specify grounds and requested powers in Attachment 3f(3).)*

g. Proposed personal representative is a

- (1)  resident of California.
- (2)  nonresident of California *(specify permanent address)*: \_\_\_\_\_
- (3)  resident of the United States.
- (4)  nonresident of the United States.



ESTATE OF <i>(Name)</i> :  _____	CASE NUMBER:  
DECEDENT	

8.        Name and relationship to decedent                      Age                                      Address

Continued on Attachment 8.

9. Number of pages attached: \_\_\_\_\_

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF ATTORNEY)

▶ \_\_\_\_\_  
(SIGNATURE OF ATTORNEY)\*

\* (Signatures of all petitioners are also required. All petitioners must sign, but the petition may be verified by any one of them (Prob. Code, §§ 1020, 1021; Cal. Rules of Court, rule 7.103).)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF PETITIONER)

▶ \_\_\_\_\_  
(SIGNATURE OF PETITIONER)

\_\_\_\_\_  
(TYPE OR PRINT NAME OF PETITIONER)

▶ \_\_\_\_\_  
(SIGNATURE OF PETITIONER)

Signatures of additional petitioners follow last attachment.

### **Government Code section 70650**

(a) The uniform filing fee for the first petition for letters of administration or letters testamentary, or the first petition for special letters of administration with the powers of a general personal representative pursuant to Section 8545 of the Probate Code, or a first account of a trustee of a testamentary trust that is subject to the continuing jurisdiction of the court pursuant to Chapter 4 (commencing with Section 17300) of Part 5 of Division 9 of the Probate Code is, as follows:

- (1) Three hundred twenty dollars (\$320) for estates or trusts under two hundred fifty thousand dollars (\$250,000).
- (2) Three hundred eighty-five dollars (\$385) for estates or trusts of at least two hundred fifty thousand dollars (\$250,000) and less than five hundred thousand dollars (\$500,000).
- (3) Four hundred eighty-five dollars (\$485) for estates or trusts of at least five hundred thousand dollars (\$500,000) and less than seven hundred fifty thousand dollars (\$750,000).
- (4) Six hundred thirty-five dollars (\$635) for estates or trusts of at least seven hundred fifty thousand dollars (\$750,000) and less than one million dollars (\$1,000,000).
- (5) One thousand one hundred thirty-five dollars (\$1,135) for estates or trusts of at least one million dollars (\$1,000,000) and less than one million five hundred thousand dollars (\$1,500,000).
- (6) Two thousand one hundred thirty-five dollars (\$2,135) for estates or trusts of at least one million five hundred thousand dollars (\$1,500,000) and less than two million dollars (\$2,000,000).
- (7) Two thousand six hundred thirty-five dollars (\$2,635) for estates or trusts of at least two million dollars (\$2,000,000) and less than two million five hundred thousand dollars (\$2,500,000).
- (8) Three thousand six hundred thirty-five dollars (\$3,635) for estates or trusts of at least two million five hundred thousand dollars (\$2,500,000) and less than three million five hundred thousand dollars (\$3,500,000).

- (9) Three thousand six hundred thirty-five dollars (\$3,635) plus 0.2 percent of the amount over three million five hundred thousand dollars (\$3,500,000) for estates or trusts of three million five hundred thousand dollars (\$3,500,000) or more.

(b) The full uniform filing fee for a petition for letters in a decedent's estate or the first account of a trustee under subdivision (a) shall be determined based on the final appraised value of the estate without reference to encumbrances or other obligations on estate property, or the value of the trust shown in the first account, and is payable as follows:

- (1) The petitioner for letters under subdivision (a) shall pay the sum of three hundred twenty dollars (\$320) at the time of filing the petition.
- (2) In a decedent's estate under subdivision (a), the balance of the uniform filing fee, if any, shall be paid by the general personal representative of the estate no later than the date the general personal representative files its final account or report and petition for settlement or for final distribution, under rules adopted by the Judicial Council, without regard to whether the representative was appointed by the court on a petition under subdivision (a) or a petition under subdivision (d).
- (3) The full uniform filing fee for a trust under subdivision (a) shall be paid when the first account is filed.

(c) The uniform filing fee for the first objections to the probate of any will or codicil under Section 8250 of the Probate Code, or the first petition for revocation of probate of any will or codicil under Section 8270 of the Probate Code, is three hundred twenty dollars (\$320). The uniform filing fee for the first petition for special letters of administration without the powers of a general personal representative is the fee provided in Section 70657.5. Where objections to the probate of a will or codicil or a petition for revocation of probate of a will or codicil are filed together with a petition for appointment of a personal representative described in subdivision (d) filed by the same person, only the fee provided in subdivision (d) shall be charged to that person.

(d) A fee of three hundred twenty dollars (\$320) shall also be charged for filing each subsequent petition or objections of a type described in subdivision (a) in the same proceeding by a person other than the original petitioner or contestant. The same fee as provided in subdivision (c) shall be charged for filing each subsequent petition or objections of a type described in that subdivision in the same proceeding by a person other than the original petitioner or contestant.

(e) Notwithstanding Section 70658.5, if a petition for special letters of administration without the powers of a general personal representative is filed together with a petition for appointment of an administrator with general powers under subdivision (a) or subdivision (d) by the same person, the person filing the petitions shall be charged the applicable filing fees for both petitions.

(f) The first three hundred twenty dollars (\$320) of the filing fee charged under this section shall be distributed as provided in Section 68085.3. The remainder shall be distributed to the Trial Court Trust Fund.

**W08-04****Probate: Graduated Filing Fee in Decedents' Estates** (amend rules 7.151 and 7.552 of the California Rules of Court and adopt rule 7.553; revise form DE-111)

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
1.	Mr. Richard Burger Chair, Trusts and Estates Administrative Subcommittee, Executive Committee, Trusts and Estates Section, State Bar of California	A	Y	Agree with proposed changes.	No response necessary.
2.	Mr. William R. Fishman Attorney at Law Petaluma, California	A	N	Agree with proposed changes.  This is a needed change. Often the named executors or heirs at law do not have the ability to come up with the filing fee, publication fee, bond premium and other immediate expenses that are prerequisites to marshaling the property of the decedent. This will at least ease that burden.	No response necessary.
3.	Mr. John V. Hager Hager & Dowling Attorneys at Law Santa Barbara, California	N	N	Do not agree with proposed changes.	The advisory committee cannot respond to this comment because it makes no specific references to the new and amended rules or the revised form described in the proposal.
4.	Ms. Lorraine Dias Herbon	A	Y	Agree with proposed changes.	No response necessary.

**W08-04**

**Probate: Graduated Filing Fee in Decedents’ Estates** (amend rules 7.151 and 7.552 of the California Rules of Court and adopt rule 7.553; revise form DE-111)

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
	Administrative Services Officer II Superior Court of Sacramento County Sacramento, California			We have reviewed the proposal and have no comments at this time.	
5.	Mr. Paul T. Gaulke Hromadka & Gaulke Attorneys at Law Los Angeles, California	A	N	Agree with proposed changes.	No response necessary.
6.	Ms. Cheryl Kanatzar Deputy Executive Officer Superior Court of Ventura County Ventura, California	A	N	Agree with proposed changes.	No response necessary.
7.	Legal Research Department Superior Court of San Bernardino County San Bernardino, California	A	N	Agree with proposed changes.	No response necessary.
8.	Ms. Jerilyn Paik Attorney Law Offices of Jerilyn Paik Sacramento, California	A	N	Agree with proposed changes. This proposal is a big improvement over requiring full filing fee payment at the start, and solves the reimbursement problems.  However, it does not address the inequities of probate filers, who are mandated by the State of California to file a probate under certain circumstances, to pay on a graduated fee	No response necessary.  The advisory committee cannot respond to this comment because it is directed at the graduated filing fee statute, not at the proposed

**W08-04**

**Probate: Graduated Filing Fee in Decedents' Estates** (amend rules 7.151 and 7.552 of the California Rules of Court and adopt rule 7.553; revise form DE-111)

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
				<p>schedule.</p> <p>This is especially unfair with the housing market, since a filing fee would be required based on the date of death value, and by the close of the estate the market has declined greatly; same for stocks and other assets, such as partnership holdings.</p> <p>Further, the graduated fee bears no relationship to the amount of court work required.</p> <p>The graduated fee rate penalizes the higher valued estates. Possibly a cap on the fee at a reasonable increased amount would be justified, if a different rate can be justified at all.</p>	amended and new rules of court or the revised form.
9.	Mr. Michael M. Roddy Executive Officer Superior Court of San Diego County San Diego, California	A	Y	Agree with proposed changes.	No response necessary.
10.	Ms. Sharol Strickland Executive Officer Superior Court of Butte County Oroville, California	A	N	Agree with proposed changes.	No response necessary.