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CIVIL CODE - CIV

DIVISION 2. PROPERTY [654 - 1422] (*Heading of Division 2 amended by Stats. 1988, Ch. 160, Sec. 13.*)

PART 2. REAL OR IMMOVABLE PROPERTY [[755.] - 945.5] (*Part 2 enacted 1872.*)

TITLE 2. ESTATES IN REAL PROPERTY [761 - 817.4] (*Title 2 enacted 1872.*)

CHAPTER 1. Estates in General [761 - 784] (*Chapter 1 enacted 1872.*)

761. Estates in real property, in respect to the duration of their enjoyment are either:

1. Estates of inheritance or perpetual estates;
2. Estates for life;
3. Estates for years; or,
4. Estates at will.

(Enacted 1872.)

762. Section Seven Hundred and Sixty-two. Every estate of inheritance is a fee, and every such estate, when not defeasible or conditional, is a fee simple or an absolute fee.

(Amended by Code Amendments 1873-74, Ch. 612.)

763. Estates tail are abolished, and every estate which would be at common law adjudged to be a fee tail is a fee simple; and if no valid remainder is limited thereon, is a fee simple absolute.

(Enacted 1872.)

764. Where a remainder in fee is limited upon any estate, which would by the common law be adjudged a fee tail, such remainder is valid as a contingent limitation upon a fee, and vests in possession on the death of the first taker, without issue living at the time of his death.

(Enacted 1872.)

765. Estates of inheritance and for life are called estates of freehold; estates for years are chattels real; and estates at will are chattel interests, but are not subject to enforcement of a money judgment.

(Amended by Stats. 1982, Ch. 497, Sec. 2. Operative July 1, 1983, by Sec. 185 of Ch. 497.)

766. Section Seven Hundred and Sixty-six. An estate during the life of a third person, whether limited to heirs or otherwise, is a freehold.

(Amended by Code Amendments 1873-74, Ch. 612.)

767. A future estate may be limited by the act of the party to commence in possession at a future day, either without the intervention of a precedent estate, or on the termination, by lapse of time or otherwise, of a precedent estate created at the same time.

(Enacted 1872.)

768. A reversion is the residue of an estate left by operation of law in the grantor or his successors, or in the successors of a testator, commencing in possession on the determination of a particular estate granted or devised.

(Enacted 1872.)

769. When a future estate, other than a reversion, is dependent on a precedent estate, it may be called a remainder, and may be created and transferred by that name.

(Enacted 1872.)

773. Subject to the rules of this title, and of Part 1 of this division, a freehold estate, as well as a chattel real, may be created to commence at a future day; an estate for life may be created in a term of years, and a remainder limited thereon; a remainder of a freehold or chattel real, either contingent or vested, may be created, expectant on the determination of a term of years; and a fee may be limited on a fee, upon a contingency, which, if it should occur, must happen within the period prescribed by the statutory rule against perpetuities in Article 2 (commencing with Section 21205) of Chapter 1 of Part 2 of Division 11 of the Probate Code.

(Amended by Stats. 1991, Ch. 156, Sec. 14.)

778. A remainder may be limited on a contingency which, in case it should happen, will operate to abridge or determine the precedent estate; and every such remainder is to be deemed a conditional limitation.

(Enacted 1872.)

779. When a remainder is limited to the heirs, or heirs of the body, of a person to whom a life estate in the same property is given, the persons who, on the termination of the life estate, are the successors or heirs of the body of the owner for life, are entitled to take by virtue of the remainder so limited to them, and not as mere successors of the owner for life.

(Enacted 1872.)

780. When a remainder on an estate for life or for years is not limited on a contingency defeating or avoiding such precedent estate, it is to be deemed intended to take effect only on the death of the first taker, or the expiration, by lapse of time, of such term of years.

(Enacted 1872.)

781. A general or special power of appointment does not prevent the vesting of a future estate limited to take effect in case such power is not executed.

(Enacted 1872.)

782. (a) Any provision in any deed of real property in California, whether executed before or after the effective date of this section, that purports to restrict the right of any persons to sell, lease, rent, use, or occupy the property to persons having any characteristic listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code, by providing for payment of a penalty, forfeiture, reverter, or otherwise, is void.

(b) Notwithstanding subdivision (a), with respect to familial status, subdivision (a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of this code, relating to housing for senior citizens. Subdivision (d) of Section 51, Section 4760, and Section 6714 of this code, and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to subdivision (a).

(Amended (as amended by Stats. 2012, Ch. 181, Sec. 22) by Stats. 2013, Ch. 605, Sec. 10. (SB 752) Effective January 1, 2014.)

782.5. (a) Any deed or other written instrument that relates to title to real property, or any written covenant, condition, or restriction annexed or made a part of, by reference or otherwise, any deed or instrument that relates to title to real property, which contains any provision that purports to forbid, restrict, or condition the right of any person or persons to sell, buy, lease, rent, use, or occupy the property on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, with respect to any person or persons, shall be deemed to be revised to omit that provision.

(b) Notwithstanding subdivision (a), with respect to familial status, subdivision (a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of this code, relating to housing for senior citizens. Subdivision (d) of Section 51, Section 4760, and Section 6714 of this code, and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to subdivision (a).

(c) This section shall not be construed to limit or expand the powers of a court to reform a deed or other written instrument.

(Amended (as amended by Stats. 2012, Ch. 181, Sec. 23) by Stats. 2013, Ch. 605, Sec. 11. (SB 752) Effective January 1, 2014.)

783. A condominium is an estate in real property described in Section 4125 or 6542. A condominium may, with respect to the duration of its enjoyment, be either (1) an estate of inheritance or perpetual estate, (2) an estate for life, (3) an estate for years, such as a leasehold or a subleasehold, or (4) any combination of the foregoing.

(Amended (as amended by Stats. 2012, Ch. 181, Sec. 24) by Stats. 2013, Ch. 605, Sec. 12. (SB 752) Effective January 1, 2014.)

783.1. In a stock cooperative, as defined in Section 4190 or 6566, both the separate interest, as defined in paragraph (4) of subdivision (a) of Section 4185 or in paragraph (3) of subdivision (a) of Section 6564, and the correlative interest in the stock cooperative corporation, however designated, are interests in real property.

(Amended (as amended by Stats. 2012, Ch. 181, Sec. 25) by Stats. 2013, Ch. 605, Sec. 13. (SB 752) Effective January 1, 2014.)

784. "Restriction," when used in a statute that incorporates this section by reference, means a limitation on, or provision affecting, the use of real property in a deed, declaration, or other instrument, whether in the form of a covenant, equitable servitude, condition subsequent, negative easement, or other form of restriction.

(Added by Stats. 1998, Ch. 14, Sec. 1. Effective January 1, 1999.)