

FULL OUTLINE

Bar Exam Doctor

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COMMUNITY PROPERTY

I. BASIC DEFINITIONS

- a. Marital Economic Community (MEC)
 - i. The MEC begins at marriage and ends at divorce, death of a spouse, or a permanent physical separation and an intent not to resume the marital relationship.
- b. Separate Property (SP)
 - i. SP is property acquired before marriage by either spouse, during marriage by gift, bequest, devise or descent, or after death, divorce or permanent separation.
- c. Community Property (CP)
 - i. Property is presumptively CP if it was acquired during marriage or temporary separation.
 - ii. You can overcome the CP presumption through statutory evidence, written title evidencing a gift, an agreement that the property is SP or purchase funds traced to an SP source.
- d. Quasi-Community Property (QCP)
 - i. QCP is property acquired by either spouse while domiciled in a non-CP state that would have been CP if the couple had been domiciled in CA at the time of acquisition.
 - ii. QCP is treated like CP during marriage after moving to CA.
 - iii. Treated like CP upon divorce.
 - iv. Upon death, surviving spouse has a 1/2 interest in the decedent's QCP, but the decedent has no rights to the survivor's QCP.
 - v. QCP is treated like CP for purposes of creditor's rights.

II. DISTRIBUTION OF PROPERTY AT DIVORCE

- a. Equal Division Requirement
 - i. RULE: Upon divorce, all community property assets are divided equally between the spouses based upon an item theory of distribution.
 - ii. A ct will divide CP assets equally between spouses absent a property settlement agreement.
 - iii. Cts will consider a disparity in earning power only when calculating spousal support.
 - iv. To divide property cts employ an item theory of distribution:
 1. Each spouse is entitled to 1/2 of EACH ITEM of CP, not 1/2 of the aggregate CP.
 2. The exception is when economic circumstances warrant awarding certain assets to one spouse and cashing out the other spouse so that each party ends up with 1/2 of the community estate.
- b. Deviation from Equal Division Requirement (not very commonly tested)
 - i. Ct decisions where economic circumstances warranted an unequal division of CP assets:
 1. Family residence → the ct awarded the family home to one spouse so they would not uproot the couple's minor children.

2. Shares of a closely held corp → the ct awarded all of the shares of a closely held corp to the spouse that was the CEO of the company so that the couple would not have to work together anymore.
 3. Pension benefits → the ct awarded pension benefits to one spouse and cashed out the other spouse so they could go their separate ways.
 4. Artwork → the ct awarded a piece of artwork that would be destroyed if it were divided in half.
 5. Stockholder voting control → the ct awarded a block of stock to one spouse because splitting it would have diminished the SH's voting control.
- ii. Statutory exceptions to the equal division requirement (not very common either)
1. Misappropriation → one spouse misappropriates CP property during marriage or before property division upon divorce.
 2. SP debts → assigned to the debtor spouse, and unpaid education debts are treated like the educated spouse's SP debt.
 3. Tort liability → tort liability not based upon activity for the benefit of the community is assigned to the tortfeasor spouse.
 4. Personal injury recovery → personal injury recovery is awarded to the injured spouse unless the interests of justice require otherwise, but injured spouse will never receive less than 1/3 of the recovery.
 5. Negative community → the ct may assign debts to one spouse when community liabilities exceed community assets, taking into account each spouse's ability to pay the debts.

III. DISTRIBUTION OF PROPERTY AT DEATH

- a. Property distributed by testamentary transfer
 - i. RULE: A spouse can transfer all of his SP and 1/2 of a CP by will.
 - ii. If a gift was made without the other spouse's consent, the nonconsenting spouse can void the gift in its entirety during the donor's lifetime, but upon the donor's death, the surviving spouse can only recover her 1/2 CP interest.
- b. Widow's election clause in a will
 - i. RULE: If the testator tries to devise all of the CP by will, or has included an explicit widow's election clause in the will, then the surviving spouse must make an election between her CP rights or her rights under the will.
 1. The widow's election clause is an explicit clause that forces the widow to make an election between her CP rights or her rights under the will.
 2. If there is no election clause and the testator only passes his 1/2 CP interest in the will, the widow can assert both her CP rights and her rights under the will.
 - ii. Widow's options when she must make an election:
 1. Widow can take under the will and accept testamentary gift, but allow her 1/2 CP interest to be disposed of according to the will; or
 2. Widow can take against the will and assert her 1/2 CP ownership interest, but then she must give up her testamentary gift.
- c. Property distributed by intestacy
 - i. RULE: If a spouse dies intestate, his 1/2 interest in the CP passes to the surviving spouse and the surviving spouse's share of the decedent's separate property depends upon the number of heirs that survive the decedent.
 1. All of the SP if the decedent has no surviving heirs.

2. 1/2 of the SP if the decedent has only one surviving heir (other than his spouse).
3. 1/3 of the SP if the decedent has more than 1 surviving heir.

IV. CREDITORS' RIGHTS TO PROPERTY

- a. Property that is liable for debts
 - i. RULE: A creditor can reach a debtor spouse's SP and all of the CP to satisfy debts incurred before and during marriage. After divorce or legal separation, a creditor cannot reach the CP awarded to a spouse unless that spouse incurred the debt or was assigned the debt by the ct.
 - ii. A non-debtor spouse's CP earnings are not liable for debt incurred before marriage if they are held in a bank account where debtor spouse has no right of withdrawal.
 - iii. *** Liability for necessities (food, clothing, shelter, and medical expenses) during the marriage:
 1. The non-debtor spouse is personally liable for debts for necessities.
 2. So creditors can reach the non-debtor spouse's SP and the non-debtor can only be reimbursed if CP or SP funds were available at the time.
 - iv. Upon divorce or legal separation, a creditor cannot reach the CP awarded to a spouse unless that spouse incurred the debt or the debt was assigned to him by the ct.
- b. When debt is incurred
 - i. In general, debt is incurred at the time the obligation arises.
 - ii. Specific types of debt:
 1. Tort debt is incurred when the tort occurs.
 2. Contract debt is incurred when the contract was made.
 3. *** Child/spousal support from a prior relationship is treated like SP debt incurred before marriage.
- c. Personal liability for debt upon divorce
 - i. RULE: Upon divorce, a spouse is personally liable for debts that she incurred or that were assigned to her by the ct.
 - ii. A spouse is personally liable for all debts she incurred.
 - iii. The non-debtor spouse becomes personally liable for a debt once it is assigned to them by the ct (but the debtor spouse still remains personally liable).
 - iv. If a spouse is not personally liable for a debt upon divorce, her property is not subject to the debt.
- d. *** Right of reimbursement for payment of certain debts
 - i. The non-debtor spouse can be reimbursed for CP funds used to pay child/spousal support from a previous relationship, but only if the debtor spouse had SP funds available at the time to pay the debt.
 - ii. The non-debtor spouse can be reimbursed for SP funds used to pay for debtor spouse's necessities but only if the debtor spouse had SP or CP funds available at the time to pay the debt.
- e. *** Tort liability
 - i. RULE: CP is subject to the tort liability of either spouse. If the tortfeasor was acting for the benefit of the community, liability is first satisfied from CP and then from the tortfeasor's SP. If the tortfeasor was not acting for the benefit of the community, then liability is first satisfied from the tortfeasor's SP and then from CP.

V. UNMARRIED COUPLE'S PROPERTY RIGHTS

- a. Requirements for a lawful marriage
 - i. RULE: In CA, lawful marriage requires legal capacity and the performance of formal legal procedures.
 - ii. CA recognizes common law marriages when the common law marriage was contracted in a jdx that still recognizes them.
- b. Unmarried cohabitants
 - i. General K principles govern property disputes between unmarried cohabitants.
 - ii. If there is no express K, the cohabitant may prove a K was implied by conduct and employ the doctrine of meruit to obtain remedies such as a constructive or resulting trust.
 - iii. To pursue a claim based on K law, full-time cohabitation is necessary.
 - iv. If cohabitants later marry, K law applies to property acquired during cohabitation.
 - v. If cohabitants later divorce, CP law applies only to property acquired during marriage.
- c. *** Putative spouse
 - i. RULE: To qualify as a putative spouse, a person must have a good faith belief based upon objectively reasonable grounds that she is lawfully married, but once that person discovers that the marriage is not valid, her quasi-marital property rights no longer accrue.
 - ii. All property that would be CP or QCP if the couple had been legally married at the time of acquisition is called quasi-marital property (QMP).
 - iii. A bad faith putative spouse may have a claim to QMP rights accumulated by the good faith spouse.
 - iv. A claim to putative spouse status will fail if the claimant knew the marriage was invalid.
 - v. When both parties know the marriage is invalid, one partner can employ the doctrine of estoppel against the other partner if that partner still continued to enjoy the benefits of cohabitation.
 - vi. When a decedent is survived by both a lawful and a putative spouse, cts have divided the decedent's estate between them equally.
- d. Domestic partner
 - i. Ctr rules apply to domestic partners registered in CA.

VI. OUT OF STATE CP AND QCP

- a. RULE: QCP retains its CP nature after a couple moves to CA, but QCP is treated like CP upon divorce or for purposes of creditor's rights. Upon the death of the acquiring spouse, the surviving spouse has a 1/2 interest in the decedent's QCP.
- b. Upon death:
 - i. If the acquiring spouse dies, then the surviving spouse has a 1/2 interest in the decedent's QCP.
 - ii. If the non-acquiring spouse dies, then that spouse has no interest in the QCP acquired by the surviving spouse.
- c. If a couple lives in CA at the time they acquire property in another CP jdx, the property is treated like CA CP → CA, IL, NV, AZ, NM, WI, TX, LA.
- d. Division of out of state CP and QCP realty
 - i. RULE: When dividing out of state CP or QCP realty upon divorce, cts will award the realty to one spouse and equal offsetting assets to the other spouse.
 - ii. A ct will divide out of state CP and QCP realty upon death by employing the situs rule and applying the probate laws of the state in which the realty is located.

VII. PROPERTY CHARACTERIZED BY SOURCE OF FUNDS

a. *** Lucas and anti-Lucas statute

- i. **RULE:** Under the Lucas ruling, property purchased with SP and CP funds before Jan 1, 1987 is presumptively CP if the spouses took title in joint and equal form. As a result of the anti-Lucas statute, the CP presumption for property purchased with SP and CP funds after Jan 1, 1987 is rebuttable and the SP contributor can be reimbursed for downpayments, improvements and principal payments upon divorce.
- ii. The Lucas ruling applies to property that was purchased with SP and CP funds before Jan 1, 1987:
 1. The property is presumptively CP if the spouses took title in joint and equal form.
 2. The SP contribution is presumed to be a gift to the community and the SP contributor has no separate ownership interest or claim for reimbursement absent proof of an oral or written agreement.
- iii. *** The anti-Lucas statute applies to property that was purchased with SP and CP funds after Jan 1, 1987:
 1. The property is still presumptively CP if the spouses took title in joint and equal form.
 2. Now the CP presumption is rebuttable through a unilateral written agreement or an explicit statement in the title that the property is SP, not CP.
 3. The anti-Lucas statute only applies to divorce or legal separation.
- iv. *** SP contributor can be reimbursed for (DIP):
 1. Down payments
 2. Improvements
 3. Principle payments
- v. *** No reimbursement for:
 1. Interest on the loan; or
 2. Appreciation of the property value.
 3. Other payments not subject to reimbursement: interest payments, appreciation, maintenance, insurance, and taxes.

b. *** Property purchased from a commingled bank account

- i. **RULE:** Property purchased from a commingled bank account is not presumptively CP, but the burden of proof is on the SP proponent to show that SP funds were used to purchase the asset. The SP proponent can use either the exhaustion method or the direct tracing method to prove that SP funds were used to purchase the property.
- ii. An asset is not presumptively CP when it is purchased from a commingled bank account, but the burden of proof is on the SP proponent to show that SP funds were used to purchase the asset.
- iii. Tracing methods the SP proponent can use to prove that SP funds were used to purchase property:
 1. Exhaustion method: at the time the asset was purchased, CP funds in the account must have already been exhausted through the payment of family expenses.
 2. Direct tracing method: at the time the asset was purchased, there were sufficient SP funds available and the SP proponent intended to use SP funds to purchase the asset.
- iv. *** Presumptions applying to family expenses (food, clothing, housing, recreation) paid from a commingled bank account:

1. Family expenses are paid with CP funds, and SP funds are only used when CP funds have been exhausted.
 2. SP funds used to pay for family expenses are a gift to the community.
 3. The SP proponent cannot use recapitulative accounting to show that total family expenses exceed total CP income to prove the remaining funds are his SP.
- c. *** CP funds or CP labor enhance value of SP business
- i. RULE: When CP funds or CP labor enhance the value of a SP business, you will apply Van Camp or Periera to calculate the CP portion of the business. Van Camp is used when the character of the business was the primary reason for its growth or productivity, and Periera is used when the personal skills and effort of the managing spouse increased the value of the business.
 - ii. Van Camp (value character of business) → favors SP estate
 1. Equation: market salary for managing spouse's services – family expenses paid from business earnings = CP portion of business (remainder is SP)
 2. Use this method when the character of the business is the primary reason for its growth or productivity.
 3. Other factors to consider: the spouse was paid a substantial salary or drew large bonuses, implying that the community was well compensated.
 - iii. Periera (personal skills and effort) → favors CP estate
 1. Equation: value of managing spouse's business at time of marriage + fair rate of return (10% per annum) = CP portion of the business (remainder is SP).
 2. Use this method when the personal skills and effort of the managing spouse are the primary reasons for the growth or productivity of the business.
 3. Other factors to consider: the spouse worked long hours or drew a modest salary.
- d. *** CP funds used to pay principal on or improve SP property
- i. RULE: When CP funds are used to pay the principal on SP property, the community establishes a pro-rata ownership interest to the extent that the CP mortgage payments reduced the principal debt. When one spouse uses CP funds to improve the other spouse's SP property, the funds are presumed to be a gift, although the community may be granted a right of reimbursement if the gift rejects the presumption. If SP funds are used to make improvements on CP property, the anti-Luce reimbursement rules apply, so the spouse that contributed the SP funds can be reimbursed for improvements but without interest or appreciation.
 - ii. Use the buy-in rule to calculate the CP ownership to the extent that CP mortgage payments reduced the principal debt.
 1. The buy-in rule is not triggered by payments of (IMP):
 - a. Insurance premiums
 - b. Mortgage interest
 - c. Property taxes
 2. Appreciation is calculated in proportion to ownership interest.
 - iii. CP funds used to improve a spouse's *own* SP property are not presumed to be a gift, and the community can be reimbursed for the greater of improvement costs or the amount by which the improvement increased the property value.
- e. Property purchased with credit
- i. Purchases made with borrowed funds are treated like cash purchases in terms of ownership interest when the property is acquired.
 - ii. Credit or purchase money loans trigger the CP presumption.

- iii. *** The borrowing spouse can overcome the CP presumption by using the intent of lender test to prove the lender relied primarily on the borrower's SP in extending the credit.
- iv. *** The personal credit of either spouse during marriage is CP if it is based on earning capacity or personal creditworthiness.
- v. Loans cannot be apportioned, but cts can still apportion the asset paid for by the loan..
- vi. The subsequent actions of the parties in paying off a mortgage loan may change the character of the asset under the buy-in rule.

VIII. MANAGEMENT AND CONTROL OF PROPERTY

a. Rules regarding the control of SP and CP

- i. In general, each spouse has exclusive management and control of his SP, and equal management and control of the CP.
- ii. Subject to certain exceptions, either spouse acting alone may buy, sell, spend or encumber all of the CP.

b. Conveyances of real property

- i. To validly convey CP realty, both spouses must jointly execute a written instrument.
- ii. One spouse cannot make a non-testamentary transfer of her ½ CP interest in real property without the other spouse's consent.
- iii. CP titled in only one spouse's name:
 - 1. If the CP is sold to a BFP, and that spouse has represents his marital status, the nonconsenting spouse has 1 year to void the transfer.
 - 2. Transfers to BFPs are presumed valid but the nonconsenting spouse can still void the conveyance by proving that she did not consent to the transfer.

c. Exceptions to equal control rule for personal property

i. Personal belongings

- 1. One spouse cannot transfer household furnishings or clothing without the written consent of the other spouse.
- 2. The nonconsenting spouse can void the transfer at any time during or after marriage and does not need to refund the purchase price to the transferee.

ii. Businesses

- 1. The spouse who operates, manages or has an interest in the business that is all or substantially all community personal property, has primary control over the business.
- 2. Although the managing spouse can act alone for most business transactions, he must give prior written notice to the nonmanaging spouse for any sale, lease or exchange of all or substantially all of the personal property used in the operation of the business.
- 3. If no notice is given, the nonmanaging spouse can seek remedy only if the managing spouse's behavior has substantially impaired her ½ interest in the community estate, but in no event can she void the transfer.

d. Gifts of CP

- i. RULE: If one spouse makes a gift of CP to a 3rd party without the other spouse's consent, the nonconsenting spouse can void the gift in its entirety during the donor's lifetime. If the donor dies, she can still recover her ½ CP interest in the gift.

- ii. The donor spouse needs the other spouse's written consent to make a gift to a 3rd party, but if consent is not obtained, the nonconsenting spouse can still ratify the gift in a separate writing.
- iii. The nonconsenting spouse can void the gift in its entirety during the donor's lifetime, but the gift becomes a valid testamentary transfer upon the donor's death, and the surviving spouse can only recover her ½ CP interest.

IX. HOW AGREEMENTS AFFECT PROPERTY RIGHTS

a. Premarital agreements

- i. **RULE:** A valid premarital agreement must be in writing and the party asked to sign the agreement must be represented by independent legal counsel, but oral agreements are still enforceable if the promise was carried out by the promisor or the promisee detrimentally relied on the oral K.
- ii. The scope of premarital agreements
 - 1. Parties can limit or waive property and death rights.
 - 2. Parties can agree that each spouse's salary remains his or her own SP after marriage.
 - 3. Parties can agree that neither spouse will claim a family allowance in the other spouse's estate.
 - 4. Agreements can govern the disposition of property upon separation, divorce or death.
 - 5. Agreements can govern personal rights and obligations.

iii. Limitations on the scope of premarital agreements

- 1. Provisions that limit or waive spousal support are unenforceable if:
 - a. The burdened party was not represented by legal counsel when the agreement was signed, and
 - b. The provision was unconscionable at time of enforcement.
- 2. Agreements cannot promote divorce.

b. *** Oral and written transmutations during marriage

- i. **RULE:** Oral transmutations made before Jan 1, 1985, are enforceable, but any transmutations made after that date must be in writing, signed by the spouse whose interest is adversely affected, and expressly state that a change in ownership is being made.
- ii. Oral transmutations made before Jan 1, 1985 are enforceable whether based on an express agreement or implied in fact from either party's behavior.

iii. *** Requirements for oral transmutations made on or after Jan 1, 1985:

- 1. Agreements that alter the character of the property must be:
 - a. In writing
 - b. Signed by the spouse whose interest is adversely affected; and
 - c. Expressly state that a change in ownership is being made.

iv. The writing requirement applies to all transmutations:

- 1. SP into CP
- 2. CP into SP
- 3. One spouse's SP into the other spouse's SP by gift

c. Effect of title agreements on property rights

- i. JT with right of survivorship

1. Each spouse owns an undivided ½ SP interest which is treated like CP upon divorce. Upon one spouse's death, the decedent's ½ interest passes to the surviving spouse.
- ii. Tenancy in common
 1. Each spouse possesses an equal proportional ownership interest in the asset with no right of survivorship.
 2. Key language: property conveyed to A and B is presumed to be held as a tenancy in common if the conveyance occurred before 1975.
- iii. Community property
 1. Each spouse owns an undivided ½ CP interest in the asset with no right of survivorship.
 2. Key language:
 - a. Any conveyance at any time that explicitly describes the grantees as husband and wife.
 - b. Property conveyed to A and B is presumed to be SP if the conveyance took place after 1975.
- iv. Community property with right of survivorship
 1. Each spouse owns an undivided ½ CP interest in the asset with a right of survivorship.
- d. Married woman's special presumption
 - i. RULE: The Married Woman's Special Presumption applies to property acquired before 1975 if title was taken in the wife's name only, if husband and wife took title as tenants in common, or if title was taken in the wife's name only and a 3rd party.
 - ii. If property was acquired before 1975:
 1. If title was taken in the wife's name only, then the property is presumptively SP.
 2. If title was taken as tenants in common, then the wife has a ½ SP interest, and the husband has a ½ CP interest.
 3. If title was taken in the wife's name only and a 3rd party, then the SP presumption applies and the husband has no interest in the property.
 - iii. *** The rule for property acquired after 1975 is that when one spouse purchases property and puts title in the other spouse's name, it was intended to be a gift.

X. SPECIAL CATEGORIES OF PROPERTY

Personal injury recovery

- i. RULE: Personal injury recovery caused by a 3rd party tortfeasor is the injured spouse's SP before or after marriage, but tort recovery is CP if the injury occurred during marriage.
- ii. But the injured spouse must reimburse the community or the other spouse's SP for injury related expense if injury occurs before or after marriage.
- iii. If the injury occurs during marriage, the tort recovery is CP, but it will be awarded to the injured spouse upon divorce if:
 1. The recovery has not already been expended or commingled with CP funds, and
 2. The interests of justice do not require otherwise.
- iv. Upon death, tort recovery is treated like CP.
- v. Personal injury recovery against the tortfeasor's spouse is the injured spouse's SP.

- b. *** Education/training expenses
- i. RULE: The community has a right of reimbursement for one spouse's education expenses if CP funds were used to pay for the expenses, the earning capacity of the educated spouse was substantially enhanced, and the spouses did not waive the right of reimbursement by a signed agreement.
 - ii. The community has a right of reimbursement for a spouse's education or training expenses if (must meet all 3):
 1. CP funds were used to pay for education expenses and/or loans
 2. The earning capacity of the educated spouse was substantially enhanced, and
 3. The spouses did not waive the right of reimbursement by a signed agreement.
 - iii. Defenses to reimbursement
 1. More than 10 years have passed between education and divorce, and the community has substantially benefited from the education.
 2. The other spouse also received an education paid with CP funds, or
 3. The education reduced the need for spousal support.
 - iv. Any outstanding loans at divorce are assigned to the educated spouse.
 - v. The community can be reimbursed for direct education expenses only, not living expenses.
- c. *** Business/professional goodwill
- i. RULE: Business and professional goodwill represents those qualities that generate income beyond that derived from the labor of a spouse and the reasonable return on capital and physical assets.
 - ii. Goodwill is treated like CP if it was created during marriage.
 - iii. Cts use 2 valuation techniques:
 1. Market sales valuation, which occurs through expert witness testimony.
 2. Capitalization of past excess earnings that are attributable to goodwill.
- d. *** Stock options
- i. RULE: Stock options awarded during marriage are CP and cts use the time rule to apportion the CP ownership interest.
 - ii. Time rule: date option awarded to date MEC ends / date option awarded to date it can be exercised = % of CP.
- e. Pension benefits
- i. RULE: Vested or unvested pension benefits earned during marriage are CP, and cts use the time rule to apportion the CP ownership interest.
 - ii. Pension benefits are treated like deferred compensation and classified according to when they are earned.
 - iii. If the spouse is not eligible for retirement upon divorce, the ct can:
 1. Pay benefits to the nonparticipant spouse (NPS) when and if received.
 2. Cash out the NPS upon divorce by awarding assets of equal value to her, or
 3. Retain jdx.
 - iv. If the employed spouse is eligible for benefits upon divorce, cts use the time rule to apportion CP interests in the pension benefits earned during marriage.
 - v. If the NPS predeceases the employed spouse during marriage, the NPS has no devisable interest in the pension benefits.
 - vi. Time rule: years employed during marriage / total years of employment = % of CP.
- f. Disability pay/worker's compensation

- i. RULE: Disability pay or worker's compensation benefits are treated like wage replacement and classified according to when received, not when earned, and the characterization of the benefit depends on what it is intended to replace.
 - ii. Marital earnings → CP
 - iii. Post-divorce earnings → SP
 - iv. Retirement benefits → CP
- g. Severance pay
 - i. RULE: If the severance pay resembles a retirement pension because it was earned through employment during marriage, the severance is treated like CP. If the severance is intended to replace lost earnings, it is treated like SP after divorce or permanent separation.
- h. Life insurance
 - i. RULE: Upon the death of an insured spouse, the 3rd party beneficiary and the surviving spouse each get ½ of whole life insurance proceeds if the policy was paid with CP funds. If the policy was paid for with CP and SP funds, cts employ the buy-in rule to apportion the CP ownership interest in the policy. Term insurance has no investment feature, so most cts hold that it has no value upon divorce. Upon death, cts will employ the apportionment method or hold that the characterization of the final premium payment will determine whether the proceeds are CP or SP.
 - ii. Buy-in rule: number of premium payments made with CP / total number of premium payments.
- i. Property insurance
 - i. There is no buy-in rule for SP property, so the proceeds from an insurance policy for SP property are SP even if CP funds were used to make the premium payments.
 - ii. However, the community can claim reimbursement for CP funds used to make the premium payments.

XI. FEDERAL PREEMPTION

- a. Federal law preempts community property law
 - i. Federal homestead claims: characterization depends on federal homestead law.
 - ii. Armed forces life insurance benefits: characterized as SP.
 - iii. US savings bonds: characterized as SP unless fraud is involved.
 - iv. Social security benefits: characterized as SP.
- b. Property with federal aspects
 - i. Railroad retirement benefits: characterized as SP if benefits are parallel to social security benefits, and apportioned CP if benefits are supplemental.
 - ii. Military retirement benefits: characterized as apportioned CP.
 - iii. Military and VA benefits: characterized as SP.
 - iv. Civil and foreign service pension: characterized as apportioned CP.
 - v. Copyrights: CP division of copyright proceeds are not preempted by federal copyright law.