

Study L-649

February 3, 1999

First Supplement to Memorandum 99-2**Uniform Principal and Income Act: Staff Draft Recommendation
(California Bankers Association Proposal)**

Attached to this memorandum is a letter we just received from David W. Lauer, on behalf of the California Bankers Association.

The staff believes the basic issues concerning the power to adjust cannot be resolved at this meeting. The staff recommends that the Commission approve the draft recommendation attached to Memorandum 99-2, so that it can be printed and the bill introduced before the deadline. We will continue to work with CBA and other interested parties to see if we can resolve the issues, although discussions thus far indicate there is a fundamental policy disagreement that drafting language cannot solve.

Respectfully submitted,

Stan Ulrich
Assistant Executive Secretary

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David W. Lauer
Vice President and
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February 3, 1999

Mr. Stan Ulrich
California Law Revision Commission
4000 Middlefield Road, Room D-1
Palo Alto, CA 94303-4739

Re: Proposed Uniform Principal and Income Act

Dear Stan:

As we discussed last week, the California Bankers Association has been considering various solutions to the concerns which the Association has previously expressed with respect to the trustee's power to adjust under the proposal.

As we have previously discussed, elimination of the power altogether remains the preferred solution. However, the Association continues to attempt to arrive at a modification of the section which will be acceptable to its constituent member banks and other parties interested in the Act.

You have asked me to provide modifying language which will be acceptable to the Association. The following is offered for your consideration as a new limitation on the power to adjust and would become the new subsection (1) under Section 16336(b):

"(1) Where the trustee has the discretion to make payments of income or principal to a beneficiary."

I would like to review this proposal with you at your convenience. I would also like to review with you your proposed comments both under this section and in reference to the power to adjust in general.

I look forward to talking with you.

Sincerely,

