

First Supplement to Memorandum 84-30

Subject: Study L-640 - Trusts (Comments on Transfer of Trusts)

The California Bankers Association is "in accord with the general recommendations of the staff" on the subject of transfers of trusts to or from California. (See Memorandum 84-58, Exhibit 4, p.11.)

The Executive Committee of the Probate and Trust Law Section of the Los Angeles County Bar Association (LABA) characterizes the proposed changes as "sound". (See Memorandum 84-58, Exhibit 1, p.6.)

Draft § 4653(h). Contents of petition to transfer

The LABA Committee (id.) questions the retention in draft Section 4653(h) of the requirement that the petition state "whether there is any pending civil action in this state against the trustee." The Committee suggests that this provision be limited to natural persons, since corporate fiduciaries probably always have actions pending against them, which is "certainly not news to the judge who may hear a petition to transfer a trust." The staff has no objection to eliminating this requirement in its entirety, but perhaps it would be best to limit it to require a statement of any action concerning the trust or trust property. This revision would apply only to the existing trustee. As the memorandum notes, it is not entirely clear whether this requirement applies to both the existing and proposed trustees, though the staff assumes it applies to both under existing law.

Respectfully submitted,

Stan G. Ulrich  
Staff Counsel