



CALIFORNIA BAR EXAMINATION CONTENT MAP

TRUSTS

The topics listed below are illustrative of those covered in Trusts, but are not exhaustive.

I. Express trusts

- A. Definition
- B. Required Parties
 - 1. Settlor
 - 2. Trustee
 - a. Qualifications
 - b. Powers conferred by instrument or law
 - c. Effect of lack of trustee
 - 3. Beneficiary
 - a. Ascertainable person or group of people
 - b. Corporations and unincorporated associations
 - c. After-born children
- C. Creation of valid trust
 - 1. Manifestation of intent to create a trust
 - a. Precatory words
 - b. Writing requirement for real property
 - 2. Ascertainable trust property
 - 3. Valid trust purpose
 - a. Purpose not illegal or offensive to public policy
 - b. Illegality at creation
 - c. Illegality after creation
 - 4. Ascertainable beneficiaries
 - a. Class gift
 - b. Later-born children
 - c. Charitable trusts
 - 5. Transfer of property
- D. Inter-vivos trust
- E. Testamentary trust
- F. Pour-over trust
- G. Revocable versus irrevocable trust
- H. Acts of independent significance
- I. Incorporation by reference
- J. Modification and termination of trust

II. Limitations on express trusts

- A. Statute of frauds
 - 1. Personal property
 - 2. Real property
 - 3. Partial performance
- B. Rule against perpetuities

III. Failure of express trust

- A. Resulting trust
- B. Constructive trust
- C. Gift
- D. Property passing by intestacy

IV. Restrictions on beneficial interest

- A. Spendthrift provisions
- B. Discretionary and support trusts

V. Duties of trustee

- A. Standard of care
- B. Duty of loyalty and impartiality
- C. Duty to personally perform trust duties
- D. Duty to preserve and protect trust property
- E. Prudent investor rule
 - 1. Buying and selling trust property
 - 2. Handling unproductive assets
- F. Avoidance of self-dealing
 - 1. Segregating trust property
 - 2. Duty to account

VI. Trustee's discretionary powers

- A. Discretion granted by trust language
- B. Implied necessary and appropriate powers
- C. Limits on discretion
 - 1. Distribution of income and principal
 - 2. Accusations of breach

VII. Rights of beneficiary

VIII. Remedying breach of trust

IX. Trustee liability to beneficiary

- X. Beneficiary liability**
- XI. Trust or trustee liability to third party**
- XII. Third party liability to trust**