

First Supplement to Memorandum 87-20

Subject: Study L-640 - AB 362 (Trusts)

We have received another suggestion for clarifying a provision in the Trust Law. The problem is an inconsistency in the description of the person who has rights under a revocable trust. The preferred language, as used in Probate Code Sections 15800-15802, is "the person holding the power to revoke." Section 15803, which relates to the rights of a holder of a power of appointment or withdrawal, refers to the "rights of a settlor" provided by Section 15800-15802. Section 15803 should be consistent with Section 15800-15802. Accordingly, Section 15803 should be revised as follows:

§ 15803. Rights of holder of power of appointment or withdrawal

15803. The holder of a presently exercisable general power of appointment or power to withdraw property from the trust has the rights of a ~~settlor~~ person holding the power to revoke the trust that are provided by Sections 15800 to 15802, inclusive, to the extent of the holder's power over the trust property.

This is a technical amendment that should be included in AB 362.

Respectfully submitted,

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