HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS

BILL #:	CS/CS/HB 583	**FINAL HOUSE FLOOR ACTION:**	
SPONSOR(S):	Insurance & Banking Subcommittee; Civil Justice Subcommittee; Spano and others	117 **Y's**	0 **N's**
COMPANION BILLS:	(CS/CS/SB 492)	**GOVERNOR'S ACTION:**	Approved

SUMMARY ANALYSIS

CS/CS/HB 583 passed the House on May 1, 2013, as CS/CS/SB 492. The bill makes a number of changes to the probate and trust codes.

The administration of estates and trusts is governed by the Florida Probate Code and the Florida Trust Code. The bill makes a number of changes to the Florida Unclaimed Property Act, the Florida Probate Code and the Florida Trust Code. The bill provides:

- A trustee may report and deliver unclaimed intangible property to the Department of Financial Services after two years, instead of five years.
- A caveator is not required to serve notice on him or herself when filing a petition for administration of the estate.
- Any gift received by a lawyer, or a relative of the lawyer, pursuant to a written instrument that the lawyer prepared is void.
- A clerk of court, upon receipt of a will, must keep the will in its original form for 20 years.
- For the expansion of the jurisdiction of Florida courts to adjudicate trust disputes by the creation of an applicable long arm statute.
- That notice to certain trust beneficiaries may be provided by mail requiring return receipt, in certain circumstances.
- For the reconciliation of conflicting definitions of "distributee."
- Resolution of a conflict between a statute and the Florida Rules of Civil Procedure over *forum non conveniens* by a repeal of the statute.
- A trustee may provide trust accountings more frequently than once per year.
- For the removal of a filing requirement for decedents dying after December 31, 2012, regarding estate taxes.

This bill may have an insignificant fiscal impact due to workload to state and local governments. See FISCAL COMMENTS.

The bill was approved by the Governor on June 14, 2013, ch. 2013-172, L.O.F., and will become effective on October 1, 2013, except as otherwise provided.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Estate Tax Returns

The provisions of the Internal Revenue Code eliminating the state death tax credit and state generation-skipping transfer tax credit had been scheduled to sunset on December 31, 2012. However, as a result of the passage of The American Taxpayer Relief Act of 2012,[1] the state death tax credit and state generation-skipping transfer tax credit were permanently eliminated and replaced with a federal estate tax deduction for state death taxes.

Accordingly, Section 1 of the bill eliminates the language of s. 198.13(4), F.S., that indicates that subsection (4) does not apply to estates of decedents dying after December 31, 2012. The bill provides that Section 1 of the bill applies retroactively to January 1, 2013, to avoid the need for some estates to file zero tax returns.

Unclaimed Property Held by a Trustee

Current Situation

Property is considered legally unclaimed after the holder of the property is unable to find the lawful owner. This may happen because the lawful owner has failed to make contact for a period of time, no lawful owner is known, or when the lawful owner refuses to accept the property. The "Florida Disposition of Unclaimed Property Act"[2] determines how long an unclaimed asset must be held, what reporting requirements must be observed by the holder, and how unclaimed property is determined. After delivery to the state, the property is managed and held by the Florida Department of Financial Services and may be claimed thereafter by the rightful owner.

Under current law, a trustee holding property for an unknown beneficiary[3] must retain the property for five years before the property is presumed unclaimed.[4] Funds held by a financial organization (including a trust company), an agent, or a fiduciary are presumed unclaimed after five years unless the owner has increased or decreased the principal, accepted payment of principal or income, communicated concerning the property, or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary. After five years of inactivity, the trustee must report and deliver the unclaimed property to the Department of Financial Services.[5]

Corporate fiduciaries have procedures to continue management of unclaimed assets for the five year time frame. However, when individuals serve as trustees, they may not realize that they must manage assets which remain unclaimed. Failure to properly manage these assets is a breach of the fiduciary duty of the trustee. Further, the trustee administering a testamentary bequest has a much longer obligation to hold unclaimed property than the personal representative of an estate with the same duties of distribution.

While the Florida Probate Code[6] provides that a personal representative holding unclaimed property must petition the court to deposit unclaimed funds in the registry of the court, there is no analogous

[1] H.R. 8--112th Congress: American Taxpayer Relief Act of 2012. (2012). In www.GovTrack.us. Retrieved March 6, 2013, from http://www.govtrack.us/congress/bills/112/hr8
[2] Section 717.001, et seq; F.S.
[3] This includes beneficiaries who cannot be located, who are undetermined heirs, or who refuse to accept distributions, among others.
[4] Section 717.112(1), F.S.
[5] Sections 717.117 and 717.119, F.S.
[6] *See*, s. 733.816(1), F.S. The Florida Probate Code is found in chs. 731 -735, F.S.

provision in the Florida Trust Code[7] for a trustee. The only provision is the general one for all holders of unclaimed property in ch. 717, F.S., which requires the five year wait to commence distribution of unclaimed assets. While a personal representative will usually dispose of unclaimed funds by court order within one year,[8] a trustee must wait and administer unclaimed assets for five years of inactivity.

Effect of Proposed Changes

Sections 2, 3, and 4 of the bill address unclaimed intangible[9] property held by trustees of trusts administered pursuant to ch. 736, F.S.,[10] putting trust administration more on a par with probate administration by shortening the time that a trustee must hold unclaimed property from the current five years to two years. At the end of the two year period, the trustee would deliver the unclaimed property to the Florida Department of Financial Services in the same manner as under current law.

Petitions for Administration Filed by Caveators

Current Situation

Under current law, a 'caveat'[11] is filed with the clerk of court by a person who might have an interest in an estate administration, but who might not otherwise be entitled to notice of the proceeding. This might be a creditor or an heir. If a caveat "has been filed by an interested person other than a creditor, the court may not admit a will of the decedent to probate or appoint a personal representative until formal notice of the petition for administration has been served on the caveator. . ."[12]

Anecdotal evidence suggests that in some circuits the caveator is required to actually serve formal notice of the petition on him or herself, as caveator, before the petition for administration can be considered by the court. The caveator is placed in a position otherwise of being required to withdraw the caveat, thus opening a window to another party to file a competing petition for administration and secure appointment without consideration of the caveat.

Effect of Proposed Changes

Section 5 of the bill amends s. 731.110(3), F.S., to avoid the need for a caveator to serve formal notice of his or her own petition for administration on him or herself before the court may consider the petition. The change makes it unnecessary for the caveator to withdraw the caveat should the caveator fail to provide itself formal notice of its own petition for administration. The changes will eliminate an unnecessary delay in the issuance of Letters of Administration to an otherwise qualified personal representative.

Gifts to Lawyers

Current Situation

Chapter 4 of the Rules Regulating the Florida Bar contains the Rules of Professional Conduct for lawyers, and Rule 4-1.8 addresses conflicts of interest and prohibited transactions. Rule 4-1.8(c) provides in pertinent part, "A lawyer shall not solicit any substantial gift from a client, including a

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[7] The Florida Trust Code is found in ch. 736, F.S.
[8] *See*, Fla. R. Pro. Proc. 5.400(c).
[9] Tangible personal property was specifically omitted by amendment adopted March 6, 2013.
[10] The bill amends ss. 717.112 and 717.101(24), F.S., and creates s. 717.1125, F.S.
[11] "Let him beware.[Lat.] A formal notice or warning given by a party interested to a court, judge, or ministerial officer against the performance of certain acts within his power and jurisdiction. This process may be used in the proper courts to prevent (temporarily or provisionally) the proving of a will or the grant of administration . . ." Black's Law Dictionary, 2d Ed., online edition http://thelawdictionary.org/caveat/. [Last accessed February 21, 2013].
[12] Section 731.110(3), F.S.

testamentary gift or prepare on behalf of a client an instrument giving the lawyer or person related to the lawyer any substantial gift unless the lawyer or other recipient of the gift is related to client."

A violation of this Rule, however, does not give rise to a civil cause of action or render the gift to the lawyer void as a matter of law. As a consequence, a lawyer may be entitled to retain a gift or bequest from a client even though the lawyer is subject to discipline. Further, even if the bequest or gift is ultimately set aside, costs of litigation are involved to achieve that result.

In the absence of a specific statutory prohibition, Florida courts have held that a violation of Rule 4-1.8 does not render a gift to the lawyer in violation of the Rule void. In *Agee v. Brown*,[13] the 4th DCA reversed the trial court which had found that a gift to a drafting lawyer under a will was void as a matter of law because it violated Rule 4-1.8 and public policy. The *Agee* court held that the trial court had improperly "incorporated Rule 4–1.8(c) of the Rules Regulating The Florida Bar into the statutory framework of the probate code."[14] The court found that this interpretation was erroneous as "[i]t is a well-established tenet of statutory construction that courts are not at liberty to add words to the statute that were not placed there by the Legislature."[15] The court noted that the "best way to protect the public from unethical attorneys in the drafting of wills . . . is entirely within the province of the Florida Legislature."[16]

In the absence of a specific statute rendering a gift void, beneficiaries are left to challenge the instrument in court based upon standard allegations of fraud, undue influence, or duress.

Effect of Proposed Changes

Section 7 of the bill adds a new section to the Florida Probate Code[17] that would render any part of a written instrument which makes a gift to a lawyer or a person related to the lawyer void if the lawyer prepared or supervised the execution of the written instrument, or solicited the gift, unless the lawyer or other recipient of the gift is related to the person making the gift. It is noted that the provision makes the gift void rather than voidable,[18] avoiding proof requirements in the event of a contest.

The bill is comprehensive in its application. It provides that "any part of a written instrument which makes a gift to a lawyer or a person related to the lawyer is void if the lawyer prepared or supervised the execution of the written instrument, or solicited the gift, unless the lawyer or other recipient of the gift is related to the person making the gift." It further provides that this provision may not be waived.

There are safeguards in the bill for bona fide purchaser without notice. If a transfer is made, the lender or purchaser takes title free of any claims, whether or not the gift is void.

The bill does not prevent a lawyer from acting as a fiduciary (for example, as a personal representative or under a power of attorney). It does not prevent a lawyer from inheriting from a client. A client is free to draft a will or other instrument making a gift to the lawyer or the lawyer's family. The statute prevents the lawyer or persons related to the lawyer from preparing the document making the gift. In such circumstances, the client should be advised to go to an independent lawyer to have the instrument making the gift prepared. The bill makes an exception for the typical situation in which the lawyer prepares a document for a family member or other related person.

Production of Wills

[13] 73 So.3d 882 (Fla. 4th DCA 2011).
[14] *Id*. at 886.
[15] *Id.*
[16] *Id.* at 887.
[17] Section 732.806, F.S.
[18] A voidable event is arguable, and facts may be presented to challenge it. In contrast, a void event requires no proof of fact because it is a legal nullity. *See*, eg., *McMurrer v. Marion County*, 936 So.2d 19 (Fla. 5th DCA 2006).

Current Situation

The Florida Supreme Court has made changes to the Rules of Judicial Administration to implement electronic filing and record keeping for all circuit courts in the state of Florida.[19] There are two reasons that original wills and codicils require special attention in response to this system. First, the originals of these documents are required for evidentiary purposes, and second, the clerk of the court is used as the depository for these documents.

In probate proceedings, original wills and codicils and information regarding the identity of interested persons are often submitted ex parte. Some wills are simply deposited with the clerk without probate administration. If heirs are unknown, notice is not properly given, or in the event of fraud on the court, months or years might pass before interested parties learn of the administration. If proper notice was not provided, the interested person may be able to petition to reopen the estate even after a final order is issued.[20] If a forgery has occurred or a will has been altered in some way, the retention of the original document is crucial from an evidentiary standpoint to establish the true beneficiaries of an estate.

Because of the unique nature of the documents, s. 732.901, F.S., currently provides that original wills are "deposited," not filed with the clerk. Further, the Clerk's Schedule (GS-11)[21] for the General Records Schedules for all agencies, posted on the Department of State's Division of Library Services website, requires the clerk to retain an original will deposited for safekeeping for 20 years. In addition, Fla. R. Prob. Proc. 5.043 provides:

> Notwithstanding any rule to the contrary, and unless the court orders otherwise, any original executed will or codicil deposited with the court shall be retained by the clerk in its original form and may not be destroyed or disposed of by the clerk for 20 years after submission regardless of whether the will or codicil has been permanently recorded as defined by Rule 2.430, Florida Rules of Judicial Administration.

When a probate administration is opened, the original will is added to the court file. In the event of electronic storage and eventual destruction of the file, it is not clear under present law that the will is in the nature of original evidence which must be preserved.

With the deposit of the will, the custodian is required to provide the date of death and social security number of the decedent.[22]

Effect of Proposed Changes

Section 8 of the bill changes s. 732.901, F.S., to codify the probate rule and specify that all wills and codicils are "deposited" not filed. In addition, regardless of where the original is maintained by the clerk, the original will or codicil must be maintained in its original form for a period not less than 20 years. For record keeping purposes, the clerk may maintain the will or codicil as part of the probate file. However, the original will or codicil may not be scanned and destroyed during the 20 year period. The bill also provides for when an original will or codicil can be submitted.

Further, the bill provides that the term "will" also includes a separate writing as defined in s. 732.515, F.S. "Separate writings" referred to in a will[23] often contain devises of valuable tangible property and are subject to the same dangers of forgery or alteration as an original will or codicil.

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[19] Fla. R. Jud. Admin. 2.525.
[20] Fla. R. Civ. Pro. 1.540 provides for setting aside a final order, including orders of discharge, in the event of fraud on the court.
[21] The full document may be found at dlis.dos.state.fl.us/barm/genschedules/GS11-2010.doc (Last viewed February 19, 2013).
[22] *See,* s. 732.901(1), F.S.

Finally, the bill revises the statute to require only the last four digits of the decedent's social security number be supplied to the clerk upon deposit of the original document to comply with new confidentiality rules.[24]

Definitions for Distributee and Permissible Distributee

Current Situation

There are two definitions in use for the word, "distributee." In the Florida Trust Code, the word "distributee" is used to mean a person who is *entitled* to a distribution. Section 736.0103(14), F.S., defines the term "qualified beneficiary" as a living beneficiary who is a "distributee or a permissible distributee" on the date the qualification is being determined. In this statute the word "distributee" is used in its plain and ordinary meaning – a person who is entitled to a distribution.

In the Florida Probate Code, however, the term "distributee" means a person who has *already* received estate property from a personal representative or other fiduciary, per the definition in s. 731.201(12), F.S.

In s. 731.201(12), F.S., a person who has not yet received a distribution, but who is entitled to or eligible to receive a distribution, is not yet a "distributee." Comparatively, in ch. 736, F.S., a person who has not yet received a distribution but who is entitled to or eligible to receive a distribution should also be a "distributee." Further, a person who received a complete distribution is a "distributee" under s. 731.201(12), F.S.

Applying the s. 731.201, F.S., definition of "distributee" to ch. 736, F.S., creates an absurd result. For example, if qualified beneficiaries are limited to persons who are "distributees" as defined in s. 731.201(12), F.S., then only persons who have already received distributions could be qualified beneficiaries, and by implication, any beneficiary who has not yet received a distribution would not be a qualified beneficiary. This is not the logical or intended result. In ch. 736, F.S., a person who has received a complete distribution would no longer be a "beneficiary," as defined in s. 736.0103(4), F.S., and therefore would not be a "qualified beneficiary" as defined in s. 736.0103(14), F.S. In short, in the trust context, those persons who have received their complete distributions should no longer be qualified beneficiaries, and those persons yet to receive their distribution should be qualified beneficiaries. The definitional sections should not impede this result.

Even though s. 731.201, F.S., provides that the definitions apply to ch. 736, F.S., subject to additional definitions and unless the context requires otherwise, the usage of the word "distributee" in ch. 736, F.S., without a definition other than the one in s. 731.201, F.S., creates confusion.

Effect of Proposed Changes

Section 9 of the bill resolves the definition of "distributee" for purposes of the Florida Trust Code. The bill adds new definitions of "distributee" and "permissible distributee" that will apply for purposes of ch. 736, F.S., the Florida Trust Code, by adding two new paragraphs to s. 736.0103, F.S., to create new definitions for "distributee" and "permissible distributee."

"Distributee" means a beneficiary who is currently entitled to receive a distribution, thereby excluding those persons who have already received their distributions.

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[23] Section 732.515, F.S., allows a testator to devise personalty by separate writing without changing the entire will, as long as there is an intention expressed in the will to take advantage of that provision.
[24] Fla. R. Jud. Admin. 2.425.

"Permissible distributee" means a beneficiary who is currently eligible to receive a distribution but who has not yet received a distribution.

Currently, the word "distributee" appears in s. 736.0103(14), F.S., (qualified beneficiary), s. 736.0110, F.S., (others treated as qualified beneficiaries), and the title of s. 736.1018, F.S., (liability of distributee). The new definition of "distributee" will not create an unintended result when applied to any of these sections.[25]

***In Rem* Jurisdiction over Trustees and Beneficiaries**

Current Situation

Section 736.0202(1), F.S. provides that a trustee, including a nonresident trustee, who accepts trusteeship of a trust having its principal place of administration in Florida, or who moves the principal place of administration of a trust to Florida, submits personally to the jurisdiction of the courts of Florida regarding any matter involving the trust. The acts of accepting trusteeship or moving a trust to Florida are hidden "long-arm" provisions, not contained in s. 48.193(1), F.S., designed to allow Florida courts to acquire personal jurisdiction over nonresidents who engage in those acts.

Under decisions of the United States Supreme Court, followed in the leading Florida case of *Venetian Salami Co. v. Parthenais*,[26]a Florida court may exercise jurisdiction over a defendant who cannot be served with process within the state (and who does not appear voluntarily) only if Florida law authorizes it, and then only if the defendant has sufficient minimum contacts with Florida such that maintaining the suit does not offend traditional notions of fair play and substantial justice. That, in turn, depends on whether the relationship among the defendant, the forum, and the litigation is such that the defendant should reasonably expect to be sued in Florida. This "minimum contacts" requirement always requires a factual analysis. So-called "long-arm" statutes are intended to specify factual situations that are likely to satisfy a minimum contacts test, but falling within the statute's parameters does not automatically satisfy that test.[27]

Many Florida trusts have trustees and beneficiaries who are not residents of the state, and it is reported among practitioners that it is difficult under current laws to acquire jurisdiction over all necessary parties in a case involving a trust. Florida's generic long-arm statute, s. 47.193(1), F.S., is reportedly too limited to include the necessary parties in most actions involving trusts, and the first step in acquiring jurisdiction over a nonresident is that Florida law must authorize it.

Effect of Proposed Changes

The bill amends s. 736.0202, F.S., a statutory means for Florida courts to acquire jurisdiction over nonresident trustees and trust beneficiaries in cases involving trusts administered in Florida through enactment of trust-related "long-arm" provisions. Such provisions specify the acts that will give a Florida court jurisdiction over nonresident trustees and trust beneficiaries who have sufficient contacts with Florida to be subject to jurisdiction of its courts consistent with constitutional due process principles, but which are not covered by the existing "long-arm" provisions in ch. 48, F.S.

Service of Process upon Trustees and Beneficiaries

Current Situation

[25] Note that the word "distributee" as used in the title of s. 736.1018, F.S., is not inconsistent with the definition of the word "distributee" in s. 731.201(12), F.S., or the new definition in s. 736.0103, F.S.
[26] 554 So.2d 499 (Fla. 1989).
[27] *Id.* at 502.

The Florida Probate Code[28] provides for service upon beneficiaries and creditors by mail in respect to their interests in the property. There is no analogous provision allowing a trustee to provide service for matters involving the trust under administration by any less means than consent or formal service under s. 48, F.S.

Effect of Proposed Changes

Section 11 of the bill creates s. 736.02025, F.S., which provides for service of process as provided in ch. 48, F.S., the general statute on service of process. It also provides for service of process by mail or commercial delivery service when the case involves an interest in trust property but does not seek a personal judgment or an order compelling a trustee or trust beneficiary to take specific action.[29] Subsection (2) of the new section parallels existing service by mail provisions in s. 48.194, F.S. Subsection (3) of the new section, allowing service by first-class mail in certain circumstances, contains elements of s. 48.194(3), F.S. This makes service of process in trust administration more like service in an estate administration, when the matter to be heard or decided is limited to the beneficiary's interest in the trust.

Repeal of s. 736.0205, F.S.

Current Situation

Section 736.0205 is identical to former s. 737.203, F.S., which was enacted in 1974 before the Florida Supreme Court added Fla. R. Civ. Pro. 1.061, which adopted the federal doctrine of *forum non conveniens* in 1996.[30] Section 736.0205, F.S., on its face appears to provide a defendant in trust litigation an absolute right to object to allowing the trust litigation to proceed in Florida if the trust has its principal place of administration in another state (unless all interested parties could not be bound by litigation of the courts in the state where the trust is registered or has its principal place of administration).

However, the statute has not been construed that way. Florida courts have held that s. 736.0205, F.S., is not jurisdictional, but is rather a *forum non conveniens* statute which requires a court to determine the "most appropriate forum" in which the case should proceed.[31] Although s. 736.0205, F.S., has been labeled a statute of forum non conveniens, the wording of the statute suggests that courts have limited discretion in allowing litigation to proceed over the objection of a defendant. This has led to significant confusion and litigation over the standards and burdens of proof for Florida courts to apply in addressing objections raised under the statute. It has also been suggested that the statute shifts the burden to the plaintiff to prove that their choice of venue is appropriate.[32] This conflicts with Fla. R. Civ. Pro. 1.061, which provides specifically that the defendant has the burden of pleading and proving the facts necessary to obtain a change of venue, and provides for a balancing of interests before dismissing a lawsuit.

In addition to conflict with Rule 1.061, the statute is misleading to attorneys and their clients in providing for a seemingly automatic dismissal of a trust case in which the trust's principal place of administration is in another state. This is contrary to the long-arm jurisdictional principle that nonresidents should be

[28] Chs. 731-735, F.S. *See,* also s. 731.301, F.S., and Fla. R. Pro. Proc. 5.040 for notice provisions.
[29] An action limited in scope to particular property that does not seek a personal judgment is called an *in rem* or *quasi in rem* action.
[30] "Forum non conveniens [a Latin phrase which translates as "inconvenient forum"] is a common law doctrine addressing the problem that arises when a local court technically has jurisdiction over a suit but the cause of action may be fairly and more conveniently litigated elsewhere. Forum non conveniens also serves as a brake on the tendency of some plaintiffs to shop for the "best" jurisdiction in which to bring suit." *See, Kinney System, Inc. v. Continental Insurance Co.*, 674 So.2d 86, 87 (Fla. 1996).
[31] *See*, e.g., *Estate of McMillian*, 603 So.2d 685 (Fla. 1st DCA 1992).
[32] *Id*. at 688.

accountable in Florida courts for tortious actions by them that have consequences or repercussions within Florida.[33]

Effect of Proposed Changes

Section 12 of the bill repeals s. 736.0205, F.S., and will thus require courts to conduct the four-part analysis contained in Fla. R. Civ. Pro. 1.061 in deciding a motion to dismiss a case on the basis of *forum non conveniens*. The repeal will also provide clarity in that existing law provides little guidance on the factors for a court to consider in deciding a motion to dismiss under the current statute.

Section 13 of the bill also repeals 736.0807(4), F.S., which is unnecessary after the amendments to s. 736.0202, F.S., outlined above.

Trust Accountings

Current Situation

Under current law, a trustee has a duty to provide an accounting. The current statutory provision concerning the duty to account by a trustee provides in F.S. 736.0813(1)(d), F.S: "A trustee of an irrevocable trust shall provide a trust accounting, as set forth in s. 736.08135, to each qualified beneficiary annually and on termination of the trust or on change of the trustee." The accounting must be in the format dictated by s. 736.08135, F.S.

There are no express provisions regarding what the resulting duties are if the trustee accounts on a period more often than annually. The statute implies, but does not make explicit, that a trustee who provides more frequent accountings to a qualified beneficiary satisfies its duty to account to qualified beneficiaries.

Corporate fiduciaries commonly provide monthly or quarterly accountings to qualified beneficiaries. Limited confusion has arisen at the trial court level about whether accountings provided more frequently than annually satisfy the trustee's duty to account.

Effect of Proposed Changes

Section 14 of the bill modifies s. 736.0813(1)(d), F.S., to provide that a trustee may provide accountings to qualified beneficiaries more frequently than annually and satisfy the duty to account, without providing a specific annual accounting. The bill provides that an accounting must cover the time period from the last accounting or, if there are no previous accountings, from the date the trustee first became accountable.

Conforming Changes

Sections 15-20 of the bill amend ss. 607.0802, 731.201, 733.212, 736.0802, 736.08125, and 738.104, F.S., to conform cross-references to changes made by the bill.

Effective date

Section 21 of the bill provides for an effective date of October 1, 2013, except as otherwise provided.

[33] *See, Wendt v. Horowitz*, 822 So.2d 1252 (Fla. 2002); *Canale v. Rubin*, 20 So.3d 463 (Fla. 2d DCA 2009).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See fiscal comments.

2. Expenditures:

   See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to have any impact on local government revenues.

2. Expenditures:

   See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

The Florida Court Clerks and Comptrollers Association has indicated that this bill will have an insignificant fiscal impact on the Clerks of Court. The Office of State Courts Administrator has indicated the courts may see an insignificant increase in the number of cases relating to administration of trusts owing to expanded in rem and personal jurisdiction, and civil actions against lawyers preparing or supervising preparation of instruments impermissibly transferring gifts to disqualified lawyers and related persons. The courts may also experience an insignificant increase in revenue from additional filing fees.[34]

[34] Office of the State Courts Administrator, 2013 Judicial Impact Statement dated February 18, 2013, (on file with the House Judiciary Committee).