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HB 283, Engrossed 1

2015 Legislature

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2 An act relating to transfers to minors; amending s.
3 710.102, F.S.; defining the term "general power of
4 appointment"; amending s. 710.105, F.S.; specifying
5 that certain transfers from a trust are considered as
6 having been made directly by the grantor of the trust;
7 amending s. 710.123, F.S.; authorizing custodianships
8 established by irrevocable gift and by irrevocable
9 exercise of power of appointment to terminate when a
10 minor attains the age of 25, subject to the minor's
11 right in such custodianships to compel distribution of
12 the property upon attaining the age of 21; limiting
13 liability of financial institutions for certain
14 distributions of custodial property; providing an
15 effective date.

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17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. Subsections (9) through (18) of section
20 710.102, Florida Statutes, are renumbered as subsections (10)
21 through (19), respectively, and a new subsection (9) is added to
22 that section to read:

23 710.102 Definitions.—As used in this act, the term:
24 (9) "General power of appointment" means a power of
25 appointment as defined in s. 732.2025(3).

26 Section 2. Section 710.105, Florida Statutes, is amended



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27 to read:

28 710.105 Transfer by gift or exercise of power of
 29 appointment.—A person may make a transfer by irrevocable gift
 30 to, or the irrevocable exercise of a power of appointment in
 31 favor of, a custodian for the benefit of a minor pursuant to s.
 32 710.111. Notwithstanding s. 710.106, a transfer by irrevocable
 33 gift from a trust over which the grantor has at the time of
 34 transfer a right of revocation, as defined in s. 733.707(3)(e),
 35 shall be treated for all purposes under this act as a transfer
 36 made directly by the grantor of the trust.

37 Section 3. Section 710.123, Florida Statutes, is amended
 38 to read:

39 710.123 Termination of custodianship.—

40 (1) The custodian shall transfer in an appropriate manner
 41 the custodial property to the minor or to the minor's estate
 42 upon the earlier of:

43 (a)(1) The minor's attainment of 21 years of age with
 44 respect to custodial property transferred under s. 710.105 or s.
 45 710.106. However, a transferor can, with respect to such
 46 custodial property, create the custodianship so that it
 47 terminates when the minor attains 25 years of age;

48 (b)(2) The minor's attainment of age 18 years of age with
 49 respect to custodial property transferred under s. 710.107 or s.
 50 710.108; or

51 (c)(3) The minor's death.

52 (2) If the transferor of a custodianship under paragraph



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53 | (1) (a) creates the custodianship to terminate when the minor
54 | attains 25 years of age, in the case of a custodianship created
55 | by irrevocable gift or by irrevocable inter vivos exercise of a
56 | general power of appointment, the minor nevertheless has the
57 | absolute right to compel immediate distribution of the entire
58 | custodial property when the minor attains 21 years of age.

59 | (3) As to a custodianship described in subsection (2), a
60 | transferor may provide, by delivery of a written instrument to
61 | the custodian upon the creation of such custodianship, that the
62 | minor's right to compel immediate distribution of the entire
63 | custodial property will terminate upon the expiration of a fixed
64 | period that begins with the custodian's delivery of a written
65 | notice to the minor of the existence of such right. To be
66 | effective to terminate the minor's right to compel an immediate
67 | distribution of the entire custodial property when the minor
68 | attains 21 years of age, the custodian's written notice must be
69 | delivered at least 30 days before, and not later than 30 days
70 | after, the date upon which the minor attains 21 years of age,
71 | and the fixed period specified in the notice for the termination
72 | of such right cannot expire before the later of 30 days after
73 | the minor attains 21 years of age or 30 days after the custodian
74 | delivers such notice.

75 | (4) Notwithstanding the definition of the term "minor" as
76 | provided in s. 710.102, if the transferor creates the
77 | custodianship to terminate when the minor attains 25 years of
78 | age, solely for purposes of the application of the termination



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79 | provisions of this section, the term "minor" means an individual
80 | who has not attained 25 years of age.

81 | (5) A financial institution has no liability to a
82 | custodian or minor for distribution of custodial property to, or
83 | for the benefit of, the minor in a custodianship created by
84 | irrevocable gift or by irrevocable exercise of a general power
85 | of appointment when the minor attains 21 years of age.

86 | Section 4. This act shall take effect July 1, 2015.