

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>    </u>	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee  
 2 Representative Moraitis offered the following:

**Amendment (with title amendment)**

5 Between lines 12 and 13, insert:

6 Section 1. Paragraph (c) of subsection (2) and subsection  
 7 (3) of section 733.212, Florida Statutes, is amended to read:

8 733.212 Notice of administration; filing of objections.—

9 (2) The notice shall state:

10 (c) That any interested person on whom a copy of the  
 11 notice of administration is served must file on or before the  
 12 date that is 3 months after the date of service of a copy of the  
 13 notice of administration on that person any objection that  
 14 challenges the validity of the will, ~~the qualifications of the~~  
 15 ~~personal representative,~~ the venue, ~~or~~ the jurisdiction of the  
 16 court, or as otherwise provided by subsection (3). Except for  
 17 estoppel based solely on a misstatement by the personal

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18 representative as to the time period within which an objection  
19 must be filed, the 3 month time period may not be extended for  
20 any reason, including affirmative representation, failure to  
21 disclose information, or misconduct by the personal  
22 representative or any other person. Unless sooner barred by  
23 subsection (3), all objections to the validity of a will, or the  
24 venue or jurisdiction of the court must be filed not later than  
25 the earlier of entry of an order of final discharge of the  
26 personal representative or one year after service of notice of  
27 administration.

28 (3) Any interested person on whom a copy of the notice of  
29 administration is served must object to the validity of the  
30 will, ~~the qualifications of the personal representative,~~ the  
31 venue, or the jurisdiction of the court by filing a petition or  
32 other pleading requesting relief in accordance with the Florida  
33 Probate Rules on or before the date that is 3 months after the  
34 date of service of a copy of the notice of administration on the  
35 objecting person, or those objections are forever barred. Except  
36 for estoppel based solely on a misstatement by the personal  
37 representative as to the time period within which an objection  
38 must be filed, the 3 month time period may not be extended for  
39 any reason, including affirmative representation, failure to  
40 disclose information, or misconduct by the personal  
41 representative or any other person. Unless sooner barred under  
42 this subsection, all objections to the validity of a will, or  
43 the venue or jurisdiction of the court must be filed not later

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44 than the earlier of one year after service of notice of  
45 administration or entry of an order of final discharge of the  
46 personal representative.

47 Section 2. Section 733.2123, Florida Statutes, is amended  
48 to read:

49 733.2123 Adjudication before issuance of letters.—A  
50 petitioner may serve formal notice of the petition for  
51 administration on interested persons. A copy of the will offered  
52 for probate must be attached to the notice. A person who is  
53 served with such notice before the issuance of letters or who  
54 has waived notice may not challenge the validity of the will,  
55 testacy of the decedent, ~~qualifications of the personal~~  
56 ~~representative,~~ venue, or jurisdiction of the court, except in  
57 the proceedings before issuance of letters.

58 Section 3. Effective upon this act becoming a law, section  
59 733.3101, Florida Statutes, is amended to read:

60 733.3101 Personal representative not qualified.—

61 (1) A personal representative shall resign immediately  
62 when the personal representative knows that he or she was not  
63 qualified to act at the time of appointment.

64 (2) Any time a personal representative who was qualified  
65 to act at the time of appointment knows or should have known  
66 that he or she would not be qualified for appointment if  
67 application for appointment were then made, the personal  
68 representative shall promptly file and serve a notice setting  
69 forth the reasons. The notice must state that any interested

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70 person may petition to remove the personal representative. An  
71 interested person on whom a copy of the notice is served may  
72 file a petition within 30 days after service of the notice  
73 requesting the personal representative's removal.

74 (3) A personal representative who fails to comply with  
75 this section shall be personally liable for costs, including  
76 attorney's fees, incurred in any removal proceeding, if the  
77 personal representative is removed. The liability shall extend  
78 to any personal representative who does not know but should have  
79 known of the facts that would otherwise require the personal  
80 representative to resign under subsection (1) or file and serve  
81 notice under subsection (2). This liability shall be cumulative  
82 to any other provided by law.

83 (4) As used in this section, the term "qualified" means  
84 qualified under ss. 733.302-733.305.

85 Section 4. Effective upon this act becoming a law, section  
86 733.504, Florida Statutes, is amended to read:

87 733.504 Removal of personal representative; causes for  
88 removal.—

89 (1) A personal representative shall be removed and the  
90 letters revoked if he or she was not qualified to act at the  
91 time of appointment.

92 (2) A personal representative may be removed and the  
93 letters revoked for any of the following causes, ~~and the removal~~  
94 ~~shall be in addition to any penalties prescribed by law:~~

95 (a) ~~(1)~~ Adjudication that the personal representative is

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96 incapacitated.

97 ~~(b)(2)~~ Physical or mental incapacity rendering the  
98 personal representative incapable of the discharge of his or her  
99 duties.

100 ~~(c)(3)~~ Failure to comply with any order of the court,  
101 unless the order has been superseded on appeal.

102 ~~(d)(4)~~ Failure to account for the sale of property or to  
103 produce and exhibit the assets of the estate when so required.

104 ~~(e)(5)~~ Wasting or maladministration of the estate.

105 ~~(f)(6)~~ Failure to give bond or security for any purpose.

106 ~~(g)(7)~~ Conviction of a felony.

107 ~~(h)(8)~~ Insolvency of, or the appointment of a receiver or  
108 liquidator for, any corporate personal representative.

109 ~~(i)(9)~~ Holding or acquiring conflicting or adverse  
110 interests against the estate that will or may interfere with the  
111 administration of the estate as a whole. This cause of removal  
112 shall not apply to the surviving spouse because of the exercise  
113 of the right to the elective share, family allowance, or  
114 exemptions, as provided elsewhere in this code.

115 ~~(j)(10)~~ Revocation of the probate of the decedent's will  
116 that authorized or designated the appointment of the personal  
117 representative.

118 ~~(k)(11)~~ Removal of domicile from Florida, if domicile was  
119 a requirement of initial appointment.

120 ~~(l)(12)~~ The personal representative was qualified to act  
121 at the time of appointment but would not now be entitled to

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122 appointment.

123 (3) Removal pursuant to this section shall be in addition  
124 to any penalties prescribed by law.

125 Section 5. (1) The amendments made by this act to s.  
126 733.212, Florida Statutes, apply to proceedings filed on or  
127 after July 1, 2015.

128 (2) The amendments made by this to s. 733.3101 and s.  
129 733.504, Florida Statutes, apply to proceedings pending on the  
130 date this act becomes a law.

131 -----  
132  
133 **T I T L E A M E N D M E N T**

134 Remove line 2 and insert:

135 An act relating to estates; amending s. 733.212, F.S.; revising  
136 the content of a notice of administration; providing that the  
137 time to file certain objections to a notice of administration  
138 may not be extended; providing an exception; specifying the time  
139 that all objections to the validity of the will, venue, or  
140 jurisdiction of the court must be filed; amending s. 733.2123,  
141 F.S.; requiring that a copy of the will be attached to a formal  
142 notice of the petition for administration; amending s. 733.3101,  
143 F.S.; requiring a personal representative to resign under  
144 certain circumstances; requiring a personal representative to  
145 provide notice if unqualified; specifying contents of notice;  
146 authorizing interested persons to petition for the removal of  
147 unqualified personal representative; defining the term

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Bill No. HB 343 (2015)

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148 "qualified"; amending s. 733.504, F.S.; requiring that a  
149 personal representative who was unqualified at the time of  
150 appointment be removed and have his or her letters of  
151 administration revoked; providing that a previously qualified  
152 personal represented may be removed if he or she is no longer  
153 entitled to appointment; providing for applicability; amending  
154 s. 733.817, F.S.;