HB 625 2022

1 A bill to be entitled

An act relating to estates and trusts; amending s. 733.705, F.S.; providing that the requirement for a claimant to file an independent action is satisfied if specified actions are taken; specifying that claimants, not creditors, are given certain priority of claims; amending s. 736.0705, F.S.; providing that a trustee may resign by specified procedure and with notice to certain parties; providing an effective date.

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

Section 1. Subsection (5) of section 733.705, Florida Statutes, is amended to read:

733.705 Payment of and objection to claims.

(5) The claimant is limited to a period of 30 days from the date of service of an objection within which to bring an independent action upon the claim, or a declaratory action to establish the validity and amount of an unmatured claim which is not yet due but which is certain to become due in the future, or a declaratory action to establish the validity of a contingent claim upon which no cause of action has accrued on the date of service of an objection and that may or may not become due in the future, unless an extension of this time is agreed to by the

Page 1 of 3

CODING: Words stricken are deletions; words underlined are additions.

HB 625 2022

personal representative in writing before it expires.

- (a) For good cause, the court may extend the time for filing an action or proceeding after objection is filed. No action or proceeding on the claim may be brought against the personal representative after the time limited above, and the claim is barred without court order.
- (b) If an action or proceeding by the claimant is pending against the decedent at the time of the decedent's death, the requirement to bring an independent action is satisfied if, within 30 days after the filing of an objection to the claim:
- 1. A motion complying with all applicable rules of procedure is filed, or a similar procedure is initiated, to substitute the proper party; or
 - 2. An order substituting the proper party is entered.
- (c) If the decedent entered into a binding arbitration agreement relating to the claim during his or her lifetime, or if arbitration is required under s. 731.401, the requirement to bring an independent action is satisfied if, within 30 days after the filing of an objection to the claim, a motion to compel arbitration against the proper party is initiated, as provided for in s. 682.03.
- (d) If arbitration was commenced before the decedent's death, the requirement to bring an independent action is satisfied if, within 30 days after the filing of an objection to the claim, notice is given to the proper party. If the

HB 625 2022

arbitration was commenced by order of the court, the notice must take the form of a timely filed motion, complying with all applicable rules of procedure, to substitute the proper party.

- (e) If an objection is filed to the claim of any <u>claimant</u> ereditor and the <u>claimant</u> ereditor brings an action to establish the claim, a judgment establishing the claim shall give it no priority over claims of the same class to which it belongs.
- Section 2. Subsection (1) of section 736.0705, Florida Statutes, is amended to read:

736.0705 Resignation of trustee.-

- (1) A trustee may resign in accordance with the procedure set forth in the trust instrument and upon notice to the cotrustees or, if none, to the successor trustee who has accepted the appointment, or, if none, to the person or persons who have the authority to appoint a successor trustee.

 Notwithstanding any provision of the terms of the trust, a trustee may also resign:
- (a) Upon at least 30 days' notice to the qualified beneficiaries, the settlor, if living, and all cotrustees; or
 - (b) With the approval of the court.
 - Section 3. This act shall take effect July 1, 2022.

Page 3 of 3

CODING: Words stricken are deletions; words underlined are additions.