

THE FLORIDA SENATE
2014 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/CS/HB 757 — Estates

by Judiciary Committee; Civil Justice Subcommittee; and Rep. Spano (CS/SB 998 by Judiciary Committee; and Senator Hukill)

The bill amends provisions in the Probate Code and Trust Code. The changes were recommended by the Real Property, Probate, and Trust Law Section of The Florida Bar.

First, the bill clarifies the effective date of legislation passed during the 2013 Regular Session which renders void any part of a written instrument making gifts to a lawyer or lawyer's relatives. As such, the bill grandfathers gifts made in wills before October 1, 2013, the effective date of the 2013 legislation.

Second, the bill clarifies that the party who is contesting the validity of a trust or seeking to revoke a trust bears the burden of establishing the grounds of the invalidity on all issues.

Third, the bill specifies that death benefits, often in the form of life insurance, which are payable to a trust are not available to pay the expenses of administration of a settlor's estate or creditor's claims unless specific language and references are made.

Finally, the bill aligns the anti-lapse provisions of the Trust Code to mirror the same provisions of the Probate Code involving outright devises of gifts to certain relatives. Accordingly, an outright devise made by a trust to a deceased beneficiary will lapse unless the beneficiary was a grandparent, a lineal descendent of a grandparent of the settlor of a revocable trust, or the testator of a testamentary trust.

Several of these provisions are designed to clarify existing law and are remedial in nature and apply retroactively while others have prospective application.

If approved by the Governor, these provisions take effect July 1, 2014.

Vote: Senate 34-0; House 115-0