

1 A bill to be entitled
2 An act relating to probate and trusts; amending
3 s. 660.46, F.S.; conforming provisions relating
4 to trust accountings; amending s. 732.2025,
5 F.S.; redefining the term "qualifying special
6 needs trust" established for a surviving
7 spouse; amending s. 731.303, F.S.; clarifying
8 existing law regarding representation in the
9 administration of a trust; providing for
10 retroactive application; amending s. 732.2075,
11 F.S.; revising provisions governing sources
12 from which the elective share is payable;
13 amending s. 733.107, F.S.; clarifying the
14 circumstances which shift the burden of proof
15 in certain proceedings contesting the validity
16 of a will; amending s. 733.702, F.S.;
17 clarifying the limitation on the presentation
18 of claims; creating s. 737.115, F.S.; requiring
19 certain trusts to contain a specified notice;
20 creating s. 737.116, F.S.; providing for the
21 establishment of trusts for an animal; creating
22 s. 737.209, F.S.; codifying existing law
23 regarding improper distribution in the
24 administration of a trust; amending s. 737.303,
25 F.S.; making conforming amendments relating to
26 the duty to inform and with respect to trust
27 accounting; creating s. 737.3035, F.S.;
28 codifying trust accounting principles; amending
29 s. 737.307, F.S.; requiring notice of statute
30 of limitations to trust beneficiaries;
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1 providing for application; providing an
2 effective date.

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

5
6 Section 1. Section 660.46, Florida Statutes, is
7 amended to read:

8 660.46 Substitution of fiduciaries.--

9 (1) The provisions of this section shall apply to the
10 transfer of fiduciary accounts by substitution, and for those
11 purposes these provisions shall constitute alternative
12 procedures to those provided or required by any other
13 provisions of law relating to the transfer of fiduciary
14 accounts or the substitution of persons acting or who are to
15 act in a fiduciary capacity. In this section, and only for
16 its purposes, the term:

17 (a) "Limitation notice" has the meaning ascribed in s.
18 737.307(3).

19 (b)~~(a)~~ "Original fiduciary" means any trust company or
20 trust department which, at the time of the initiation of the
21 proceedings provided for in this section, holds or has been
22 named or otherwise designated to hold a fiduciary capacity,
23 alone or with others, with respect to any fiduciary account
24 and which proposes in the proceedings provided for in this
25 section to terminate its fiduciary capacity with respect to
26 such fiduciary account by the substitution of a proposed
27 substitute fiduciary.

28 (c)~~(b)~~ "Proposed substitute fiduciary" means any trust
29 company or trust department qualified under the laws of this
30 state to act in the fiduciary capacity to which it is proposed

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1 in said proceedings to be substituted in the place and stead
2 of the original fiduciary.

3 (d) "Trust accounting" has the meaning ascribed in s.
4 737.3035.

5 (e) "Trust disclosure document" has the meaning
6 ascribed in s. 737.307(2).

7 (2) Any original fiduciary and any proposed substitute
8 fiduciary may, with respect to any fiduciary account or
9 accounts which they shall mutually select, initiate
10 proceedings by joining in the filing of a petition in the
11 circuit court, requesting the substitution of the proposed
12 substitute fiduciary for the original fiduciary as to such
13 fiduciary account or accounts. The petition may be filed in
14 the county in which the main office of the original fiduciary
15 is located and, except to the extent inconsistent with the
16 provisions of this section, shall be governed by the Florida
17 Rules of Civil Procedure; however, if any fiduciary account is
18 then the subject of a proceeding in a court in this state
19 pursuant to the Florida Probate Code, the Florida Guardianship
20 Law, chapter 737, or chapter 747, the petition relating to
21 such fiduciary account shall be filed in that proceeding and
22 shall be governed by the procedural or other relevant rules
23 applicable to such proceeding except to the extent
24 inconsistent with the provisions of this section.

25 (3) Unless a waiver or consent shall be filed in the
26 proceedings as provided in subsection (4), the provisions of
27 s. 731.301(1) and (2) shall apply with respect to notice of
28 the proceedings to all persons who are then cofiduciaries with
29 the original fiduciary, other than a person joining as a
30 petitioner in the proceedings; to all persons named in the
31 governing instrument as substitutes or successors to the

1 fiduciary capacity of the original fiduciary; to the persons
2 then living who are entitled under the governing instrument to
3 appoint a substitute or successor to act in the fiduciary
4 capacity of the original fiduciary; to all vested
5 beneficiaries of the fiduciary account; and to all then-living
6 originators of the governing instrument. Unless a waiver or
7 consent shall be filed in the proceedings as provided in
8 subsection (4), the provisions of s. 731.301 shall apply with
9 respect to notice to all contingent beneficiaries of the
10 fiduciary account. Only the persons or classes of persons
11 described in the foregoing provisions of this subsection shall
12 be deemed to be interested persons for the purposes of this
13 section and the proceedings and notices provided for in this
14 section; and the provisions of ss. 731.301(3) and 731.303(3),
15 (4), and (5)~~and (4)~~, relating to notice requirements, the
16 effect of notice, and representation of interests, shall apply
17 to the proceedings provided for in this section.

18 (4) Any interested person, including a guardian ad
19 litem, administrator ad litem, guardian of the property,
20 personal representative, trustee, or other fiduciary, may
21 waive any right of notice and may consent to any action or
22 proceeding which may be permitted by this section. Any such
23 waiver or consent must be filed in the proceedings and may be
24 filed at any time, and the notice requirements of this section
25 shall not apply to any person who files any such waiver or
26 consent.

27 (5) If no answer which constitutes an objection to the
28 petition or the relief requested therein, or which otherwise
29 requires a hearing, is served on the petitioners and filed
30 with the court in which the proceeding is pending by any
31 interested person or class of persons to whom notice has been

1 given as provided in subsection (3), within 30 days from the
2 service of such notice, the petition shall be considered ex
3 parte as to such interested person or class of persons. If an
4 answer which constitutes an objection to the petition or the
5 relief requested therein, or which otherwise requires a
6 hearing, is timely served and filed by any interested person
7 or class of persons, a hearing shall be set and reasonable
8 notice shall be given. The court, upon consideration of the
9 petition and the interests of the interested persons, shall
10 either grant or deny the relief requested by the petition;
11 and, if the relief is granted, the court shall order the
12 proposed substitute fiduciary to be substituted in the place
13 and stead of the original fiduciary, in the fiduciary capacity
14 theretofore held by the original fiduciary, effective on such
15 date as shall be specified in the court order which shall not
16 be more than 30 days from the date of the entry of such order
17 unless a longer period, not exceeding 90 days from the date of
18 the entry of such order, shall be requested by the
19 petitioners. The date so specified may be referred to in this
20 section as the effective date of the order for substitution.
21 The court shall order the requested substitution unless it
22 determines that such substitution would constitute or create a
23 material detriment to the estate, trust, or other fiduciary
24 account or to the interests of the beneficiaries thereof.

25 (6) All court costs and the fees of guardians ad litem
26 arising in connection with any proceeding hereunder shall be
27 paid by the petitioners and shall not be charged to any
28 fiduciary account.

29 (7) On the effective date of the order for
30 substitution, the original fiduciary shall transfer and
31 deliver, to the trust company or trust department so

1 substituted by the court order for substitution, each
2 fiduciary account with respect to which the order for
3 substitution is applicable, together with all documents and
4 records pertaining thereto and all other information in the
5 possession of the original fiduciary which may be necessary
6 for the proper continuation of the fiduciary functions; and
7 thereupon the trust company or trust department so substituted
8 shall hold the fiduciary capacity previously held by the
9 original fiduciary and shall have all the rights, powers, and
10 duties theretofore held or exercisable by the original
11 fiduciary by virtue of its former fiduciary capacity, but the
12 trust company or trust department so substituted shall not
13 exercise any right or power which, by the governing
14 instrument, is expressly made personal to the original
15 fiduciary. The proceedings in which the order for
16 substitution was entered shall not be finally terminated until
17 settlement of the final account of the original fiduciary
18 pursuant to the provisions of subsection (8).

19 (8) Within 30 days after the effective date of an
20 order for substitution entered hereunder, the original
21 fiduciary shall file a final trust accounting ~~account~~ with the
22 court and shall send a copy thereof to each interested person
23 who does not file a waiver or consent, together with a notice
24 of the filing of the final trust accounting ~~account~~. The trust
25 company or trust department substituted for the original
26 fiduciary by the court order for substitution shall be deemed
27 to be an interested party for the purposes of this subsection.
28 Objections to a final trust accounting ~~account~~ may be filed by
29 any interested party who has not filed a waiver or consent,
30 and, to be considered by the court, any such objections must
31 be filed with the court and served on the original fiduciary

1 within 60 days after a copy of the final trust accounting
2 ~~account~~ and notice of the filing of the final trust accounting
3 ~~account~~ have been sent to such interested person. Objections
4 shall be tried and determined by the court upon the
5 application of the original fiduciary or any interested person
6 who has not filed a waiver or consent. Upon expiration of the
7 time for filing objections if no objections have been timely
8 filed, or at such earlier time as waivers or consents have
9 been filed by all interested persons, or, if objections have
10 been timely filed by an interested person entitled to do so,
11 then upon the hearing on any such objections, the court shall
12 enter an appropriate order on such final trust accounting
13 ~~account~~ and on all unapproved annual or other trust accounting
14 ~~accounts~~ previously filed. If consents to a final trust
15 accounting ~~account~~ are filed with the court by all interested
16 persons to whom a copy of the final trust accounting ~~account~~
17 is required hereunder to be sent, the court shall enter an
18 order approving such trust accounting ~~account~~ and all
19 unapproved annual or other trust accounting ~~accounts~~
20 previously filed.

21 (9) Unless previously or otherwise barred by
22 adjudication, waiver, consent, limitation, or the ~~foregoing~~
23 provisions of ~~this~~ subsection(8), an action for breach of
24 trust or breach of fiduciary duties or responsibilities
25 against an original fiduciary in whose place and stead another
26 trust company or trust department has been substituted
27 pursuant to the provisions of this section is barred for any
28 beneficiary who has received a trust disclosure document
29 ~~adequately final, annual or periodic account or other~~
30 ~~statement fully~~ disclosing the matter unless a proceeding to
31 assert the claim is commenced within 6 months after receipt of

1 the trust disclosure document or the limitation notice that
2 applies to the trust disclosure document, whichever is
3 received later ~~final, annual or periodic account or statement.~~
4 In any event, and notwithstanding lack of adequate full
5 disclosure, all claims against such original fiduciary which
6 has issued a final trust disclosure document ~~account or~~
7 ~~statement~~ received by the beneficiary and has informed the
8 beneficiary of the location and availability of records for
9 his or her examination are barred as provided in chapter 95.
10 Subsections (2) and (3) of s. 737.307 apply to this
11 subsection.

12 (10) A beneficiary has received a final trust
13 disclosure document or a limitation notice ~~account or~~
14 ~~statement~~ if, when the beneficiary is an adult, it is received
15 by him or her or if, when the beneficiary is a minor or a
16 disabled person, it is received by his or her representative
17 as defined ~~described~~ in s. 731.303.

18 (11)~~(9)~~ The filing of a petition hereunder or the
19 substitution of fiduciaries pursuant to law shall not be
20 deemed as the resignation by any trust company or trust
21 department of any fiduciary capacity or relationship.

22 (12) This section applies to trust accountings for
23 accounting periods beginning on or after January 1, 2003, and
24 to written reports, other than trust accountings, received by
25 a beneficiary on or after January 1, 2003.

26 Section 2. Subsection (8) of section 732.2025, Florida
27 Statutes, is amended to read:

28 732.2025 Definitions.--As used in ss.
29 732.2025-732.2155, the term:

30 (8) "Qualifying special needs trust" or "supplemental
31 needs trust" means a trust established for an ill or a

1 disabled surviving spouse with court approval before or after
2 a decedent's death, if, commencing on the decedent's death:

3 (a) The income and principal are distributable to or
4 for the benefit of the spouse for life in the discretion of
5 one or more trustees less than half of whom are ineligible
6 family trustees. For purposes of this paragraph, ineligible
7 family trustees include the decedent's grandparents and any
8 descendants of the decedent's grandparents who are not also
9 descendants of the surviving spouse; and

10 (b) During the spouse's life, no person other than the
11 spouse has the power to distribute income or principal to
12 anyone other than the spouse.

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14 The requirement for court approval shall not apply if the
15 aggregate value of all property in all qualifying special
16 needs trusts for the spouse is less than \$100,000. For
17 purposes of this subsection, value is determined on the
18 "applicable valuation date" as defined in s. 732.2095(1)(a).

19 Section 3. Section 731.303, Florida Statutes, is
20 amended to read:

21 731.303 Representation.--In the administration of or
22 in proceedings involving estates of decedents or trusts, the
23 following apply:

24 (1) Persons are bound by orders binding others in the
25 following cases:

26 (a) Orders binding the sole holder or all coholders of
27 a power of revocation or a general, special, or limited power
28 of appointment, including one in the form of a power of
29 amendment or revocation to the extent that the power has not
30 become unexercisable in fact, bind all persons to the extent
31 that their interests, as persons who may take by virtue of the

1 exercise or nonexercise of the power, are subject to the
2 power.

3 (b) To the extent there is no conflict of interest
4 between them or among the persons represented:

5 1. Orders binding a guardian of the property bind the
6 ward.

7 2. Orders binding a trustee bind beneficiaries of the
8 trust in proceedings to probate a will, in establishing or
9 adding to a trust, in reviewing the acts or accounts of a
10 prior fiduciary, and in proceedings involving creditors or
11 other third parties.

12 3. Orders binding a personal representative bind
13 persons interested in the undistributed assets of a decedent's
14 estate, in actions or proceedings by or against the estate.

15 (c) An unborn or unascertained person, or a minor or
16 any other person under a legal disability, who is not
17 otherwise represented is bound by an order to the extent that
18 person's interest is represented by another party having the
19 same or greater quality of interest in the proceeding.

20 (2) Orders binding a guardian of the person shall not
21 bind the ward.

22 (3) In judicial proceedings involving the
23 administration of estates or trusts, notice is required as
24 follows:

25 (a) Notice as prescribed by the Florida Probate Rules
26 shall be given to every interested person, or to one who can
27 bind the interested person as described in paragraph (1)(a) or
28 paragraph (1)(b). Notice may be given both to the interested
29 person and to another who can bind him or her.

30 (b) Notice is given to unborn or unascertained persons
31 who are not represented pursuant to paragraph (1)(a) or

1 paragraph (1)(b) by giving notice to all known persons whose
2 interests in the proceedings are the same as, or of a greater
3 quality than, those of the unborn or unascertained persons.

4 (4) If the court determines that representation of the
5 interest would otherwise be inadequate, the court may, at any
6 time, appoint a guardian ad litem to represent the interests
7 of an incapacitated person, an unborn or unascertained person,
8 a minor or any other person otherwise under a legal
9 disability, or a person whose identity or address is unknown.
10 If not precluded by conflict of interest, a guardian ad litem
11 may be appointed to represent several persons or interests.

12 (5) When a sole holder or coholder ~~Agreements,~~
13 ~~waivers, consents, approvals, accounts, or other statements~~
14 ~~that fully disclose the matters that are the subject of the~~
15 ~~accounts or statements and that bind the sole holder or all~~
16 ~~coholders~~ of a general, special, or limited power of
17 appointment, including an exercisable ~~a~~ power of amendment or
18 revocation over property in an estate or trust, is bound by:

19 (a) Agreements, waivers, consents, or approvals; or

20 (b) Accounts, trust accountings, or other written
21 reports that adequately disclose matters set forth therein,~~to~~
22 ~~the extent that the power has not become unexercisable in~~
23 ~~fact, bind all persons to the extent that their interests, as~~
24
25 then all persons who may take by virtue of, and whose interest
26 are subject to,the exercise or nonexercise of the power,~~are~~
27 also bound, but only to the extent of their interests ~~subject~~
28 ~~to the power.~~

29 Section 4. Paragraph (e) of subsection (1) of section
30 732.2075, Florida Statutes, is amended to read:

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1 732.2075 Sources from which elective share payable;
2 abatement.--

3 (1) Unless otherwise provided in the decedent's will
4 or, in the absence of a provision in the decedent's will, in a
5 trust referred to in the decedent's will, the following are
6 applied first to satisfy the elective share:

7 (e) Property interests included in the elective estate
8 that pass or have passed to or for the benefit of the
9 surviving spouse, including interests that are contingent upon
10 making the election, but only to the extent that such
11 contingent interests do not diminish other property interests
12 that would be applied to satisfy the elective share in the
13 absence of the contingent interests.

14 Section 5. Section 733.107, Florida Statutes, is
15 amended to read:

16 733.107 Burden of proof in contests; presumption of
17 undue influence.--

18 (1) In all proceedings contesting the validity of a
19 will, the burden shall be upon the proponent of the will to
20 establish prima facie its formal execution and attestation.
21 Thereafter, the contestant shall have the burden of
22 establishing the grounds on which the probate of the will is
23 opposed or revocation is sought.

24 (2) The presumption of undue influence implements
25 public policy against abuse of fiduciary or confidential
26 relationships and is therefore a presumption shifting the
27 burden of proof under ss. 90.301 through 90.304.

28 Section 6. Subsection (1) of section 733.702, Florida
29 Statutes, is amended to read:

30 733.702 Limitations on presentation of claims.--

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1 (1) If not barred by s. 733.710, no claim or demand
2 against the decedent's estate that arose before the death of
3 the decedent, including claims of the state and any of its
4 political subdivisions, even if the claims are unmatured,
5 contingent, or unliquidated; no claim for funeral or burial
6 expenses; no claim for personal property in the possession of
7 the personal representative; and no claim for damages,
8 including, but not limited to, an action founded on fraud or
9 another wrongful act or omission of the decedent, is binding
10 on the estate, on the personal representative, or on any
11 beneficiary unless filed in the probate proceeding on or
12 before ~~within~~ the later of the date that is 3 months after the
13 time of the first publication of the notice to creditors or,
14 as to any creditor required to be served with a copy of the
15 notice to creditors, 30 days after the date of service on the
16 creditor, even though the personal representative has
17 recognized the claim or demand by paying a part of it or
18 interest on it or otherwise. The personal representative may
19 settle in full any claim without the necessity of the claim
20 being filed when the settlement has been approved by the
21 interested persons.

22 Section 7. Section 737.115, Florida Statutes, is
23 created to read:

24 737.115 Notice of trustee duties.--

25 (1) A trust described in s. 733.707(3) must contain a
26 notice that the trustee may have duties and responsibilities
27 in addition to those described in the instrument creating the
28 trust. The notice may, but need not, read as follows:

29 "The trustee of a trust may have duties and
30 responsibilities in addition to those described

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1 in the instrument creating the trust. If you
2 have questions you should obtain legal advice."

3 (2) The absence of the notice described in this
4 section in the trust instrument does not affect the validity
5 of the trust. A trustee is not relieved of any duty if the
6 notice is not contained in the trust instrument. No person is
7 liable for the failure to include the notice in the trust
8 instrument.

9 (3) This section applies to all trusts described in s.
10 733.707(3) and amendments to those trusts executed on or after
11 January 1, 2003.

12 Section 8. Section 737.116, Florida Statutes, is
13 created to read:

14 737.116 Trust for care of animal.--

15 (1) A trust may be created to provide for the care of
16 an animal alive during the settlor's lifetime. The trust
17 terminates upon the death of the animal or, if the trust was
18 created to provide for the care of more than one animal alive
19 during the settlor's lifetime, upon the death of the last
20 surviving animal.

21 (2) Except as provided in this section, the law of
22 this state regarding the creation and administration of
23 express trusts applies to a trust for the care of an animal.

24 (3) A trust authorized by this section may be enforced
25 by a person appointed in the terms of the trust or, if no
26 person is so appointed, by a person appointed by the court. A
27 person having an interest in the welfare of the animal may
28 request the court to appoint a person to enforce the trust or
29 to remove a person appointed. The appointed person shall have
30 the rights of a trust beneficiary for the purpose of enforcing

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1 the trust, including receiving accountings, notices, and other
2 information from the trustee and providing consents.

3 (4) Property of a trust authorized by this section may
4 be applied only to its intended use, except to the extent the
5 court determines that the value of the trust property exceeds
6 the amount required for the intended use. Property not
7 required for the intended use, including the trust property
8 remaining upon its termination, shall be distributed in the
9 following order of priority:

10 (a) As directed by the terms of the trust;

11 (b) To the settlor, if then living;

12 (c) Pursuant to the residuary clause of the settlor's
13 will if the trust for the animal was created in a preresiduary
14 clause in the settlor's will;

15 (d) If the settlor is deceased, pursuant to the
16 residuary provisions of the inter vivos trust if the trust for
17 the animal was created in a preresiduary clause in the trust
18 instrument; or

19 (e) To the settlor's heirs.

20 (5) This section applies to trusts created on or after
21 January 1, 2003.

22 Section 9. Section 737.209, Florida Statutes, is
23 created to read:

24 737.209 Improper distribution or payment; liability of
25 distributee.--A distributee who was paid improperly must
26 return the assets or funds received and the income from those
27 assets or interest on the funds since distribution or payment,
28 unless the distribution or payment cannot be questioned
29 because of adjudication, estoppel, or limitations. If the
30 distributee does not have the property, its value at the date
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1 of disposition, income thereon, and gain received by the
2 distributee must be returned.

3 Section 10. Subsection (4) of section 737.303, Florida
4 Statutes, is amended, and subsection (5) is added to that
5 section, to read:

6 737.303 Duty to inform and account to
7 beneficiaries.--The trustee shall keep the beneficiaries of
8 the trust reasonably informed of the trust and its
9 administration. The trustee's duty to inform and account
10 includes, but is not limited to, the following:

11 (4)(a) A beneficiary is entitled to a ~~statement of the~~
12 ~~accounts of the~~ trust accounting, as set forth in s. 737.3035,
13 annually and upon termination of the trust or upon change of
14 the trustee except as provided under paragraph (c).

15 (b) For purposes of this section, the term
16 "beneficiary" means:

17 1. All current income or principal beneficiaries,
18 whether discretionary or mandatory; and

19 2. All reasonably ascertainable remainder
20 beneficiaries who would take if all income interests
21 immediately terminated.

22 (c) In the case of a trust described in s. 733.707(3),
23 during the grantor's lifetime, the trustee's duties under this
24 section extend only to the grantor or the legal representative
25 of the grantor.

26 (d) A beneficiary or the beneficiary's representative,
27 as defined in s. 731.303, may waive, in writing, the trustee's
28 duty to account under paragraph (a).

29 (e) All rights provided a beneficiary under this
30 section may be asserted by a legal representative or natural
31 guardian of the beneficiary. Notice under subsection (1) and a

1 trust accounting ~~statement of accounts~~ under paragraph (a)
2 provided to a representative of the beneficiary as defined in
3 s. 731.303 shall bind the beneficiary, and the trustee shall
4 not be required to provide such notice or trust accounting
5 ~~statement of accounts~~ to any beneficiary who would be bound by
6 an order binding on a representative of the beneficiary under
7 s. 731.303, if such notice or trust accounting ~~statement of~~
8 ~~accounts~~, respectively, is provided to that representative.

9 (5) This section applies to trust accountings rendered
10 for accounting periods beginning on or after January 1, 2003.

11 Section 11. Section 737.3035, Florida Statutes, is
12 created to read:

13 737.3035 Trust accountings.--

14 (1) A trust accounting must be a reasonably
15 understandable report from the date of the last accounting or,
16 if none, from the date upon which the trustee became
17 accountable, which adequately discloses the information
18 required in subsection (2).

19 (2)(a) The accounting must begin with a statement
20 identifying the trust, the trustee furnishing the accounting,
21 and the time period covered by the accounting.

22 (b) The accounting must show all cash and property
23 transactions and all significant transactions affecting
24 administration during the accounting period, including
25 compensation paid to the trustee and the trustee's agents.
26 Gains and losses realized during the accounting period, and
27 all receipts and disbursements must be shown.

28 (c) The accounting must, to the extent feasible,
29 identify and value trust assets on hand at the close of the
30 accounting period. For each asset or class of assets
31 reasonably capable of valuation, the accounting shall contain

1 two values, the asset acquisition value or carrying value and
2 the estimated current value. The accounting must identify each
3 known noncontingent liability with an estimated current amount
4 of the liability if known.

5 (d) To the extent feasible, the accounting must show
6 significant transactions that do not affect the amount for
7 which the trustee is accountable, including name changes in
8 investment holdings, adjustments to carrying value, a change
9 of custodial institutions and stock splits.

10 (e) The accounting must reflect the allocation of
11 receipts, disbursements, accruals, or allowances between
12 income and principal when the allocation affects the interest
13 of any beneficiary of the trust.

14 (3) This section applies to all trust accountings
15 rendered for any accounting periods beginning on or after
16 January 1, 2003.

17 Section 12. Section 737.307, Florida Statutes, is
18 amended to read:

19 737.307 Limitations on proceedings against trustees
20 after beneficiary receives trust disclosure documents
21 account.--

22 (1) Unless previously barred by adjudication, consent,
23 or limitations, an action against a trustee for breach of
24 trust is barred for any beneficiary who has received a trust
25 disclosure document adequately ~~final, annual, or periodic~~
26 ~~account or other statement~~ fully disclosing the matter unless
27 a proceeding to assert the claim is commenced within 6 months
28 after receipt from the trustee of the trust disclosure
29 document or the limitation notice that applies to the trust
30 disclosure document, whichever is received later. All claims
31 against a trustee who has issued a trust disclosure document

1 adequately disclosing a matter but who has not delivered a
2 limitation notice that applies to that trust disclosure
3 document are barred as provided in chapter 95 as to the
4 matters disclosed in the trust disclosure document.~~of the~~
5 ~~final, annual, or periodic account or statement.~~ In any
6 event, and notwithstanding lack of adequate full disclosure or
7 delivery of a limitation notice, all claims against a trustee
8 who has issued a final trust accounting ~~account or statement~~
9 received by the beneficiary and has informed the beneficiary
10 of the location and availability of records for his or her
11 examination are barred as provided in chapter 95.

12 (2) As used in this section, the term "trust
13 disclosure document" means a trust accounting as defined in s.
14 737.3035 or any other written report of the trustee. A trust
15 disclosure document adequately discloses a matter if it
16 provides sufficient information so that a beneficiary knows of
17 a claim or reasonably should have inquired into the existence
18 of a claim with respect to that matter. An accounting that
19 adequately discloses the information required by and that
20 substantially complies with the standards set forth in s.
21 737.3035 is a trust accounting under this section.

22 (3) As used in this section, the term "limitation
23 notice" means a written statement of the trustee that an
24 action by a beneficiary against the trustee for breach of
25 trust based on any matter adequately disclosed in a trust
26 disclosure document may be barred unless the action is
27 commenced within 6 months after receipt of the trust
28 disclosure document or receipt of a limitation notice that
29 applies to that trust disclosure document, whichever is later.

30 (a) A limitation notice may be contained as a part of
31 the trust disclosure document, may be accompanied concurrently

1 by the trust disclosure document, or may be delivered
2 separately from the trust disclosure document.

3 (b) A limitation notice may, but is not required to
4 be, in the following form: "An action for breach of trust
5 based on matters disclosed in a trust accounting or other
6 written report of the trustee may be subject to a 6-month
7 statute of limitations from the receipt of the trust
8 accounting or other written report. If you have questions,
9 please consult your attorney."

10 (c) For purposes of this section, a limitation notice
11 applies to a trust disclosure document when the limitation
12 notice:

13 1. Is contained as a part of the trust disclosure
14 document;

15 2. Is accompanied concurrently by the trust disclosure
16 document or is delivered separately within 10 days of the
17 delivery of the trust disclosure document;

18 3. Is contained as a part of another trust disclosure
19 document received within 1 year prior to the receipt of the
20 latter trust disclosure document;

21 4. Is accompanied concurrently by another trust
22 disclosure document that was received within 1 year prior to
23 the receipt of the latter trust disclosure document or that
24 was delivered separately within 10 days of the earlier trust
25 disclosure document to the beneficiary; or

26 5. Is received after the trust disclosure document,
27 but only if the limitation notice references that trust
28 disclosure document and:

29 a. Offers to provide to the beneficiary upon request
30 another copy of that trust disclosure document if it was
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1 received by the beneficiary within 1 year prior to receipt of
2 the limitation notice; or

3 b. Is accompanied by another copy of that trust
4 disclosure document if the trust disclosure document was
5 received by the beneficiary 1 year or more prior to the
6 receipt of the limitation notice.

7 (d) A limitation notice is not delivered separately if
8 it is accompanied by another written communication, other than
9 a written communication which refers only to the limitation
10 notice.

11 (4) A beneficiary has received a trust disclosure
12 document or a limitation notice final, annual, or periodic
13 account or statement if, being an adult, it is received by the
14 beneficiary or if, being a minor, disabled person, or person
15 who may take by virtue of the exercise or nonexercise of a
16 power of appointment, it is received by the beneficiary's
17 representative as defined described in s. 731.303.

18 (5) This section applies to trust accountings for
19 accounting periods beginning on or after January 1, 2003, and
20 to written reports, other than trust accountings, received by
21 a beneficiary on or after January 1, 2003.

22 Section 13. (1) Section 660.46, Florida Statutes, as
23 it existed prior to the effective date of this act shall be
24 preserved and shall continue to apply to any final, annual, or
25 periodic account for periods beginning before January 1, 2003,
26 and other statements fully disclosing the matter received by
27 the beneficiary before January 1, 2003.

28 (2) Section 731.303, Florida Statutes, as amended by
29 this act, shall be given retroactive application.

30 (3) Section 737.303, Florida Statutes, as it existed
31 prior to the effective date of this act shall be preserved and

1 shall continue to apply to accounting periods beginning before
2 January 1, 2003.

3 (4) Section 737.307, Florida Statutes, as it existed
4 prior to the effective date of this act shall be preserved and
5 shall continue to apply to any final, annual, or periodic
6 account for periods beginning before January 1, 2003, and
7 other statements fully disclosing the matter received by the
8 beneficiary before January 1, 2003.

9 Section 14. Except as otherwise provided in this act,
10 this act shall take effect upon becoming a law.

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