



1 guidelines for delivering or filing a  
2 disclaimer; creating s. 739.401, F.S.;  
3 providing when a disclaimer is permitted;  
4 creating s. 739.402, F.S.; providing when a  
5 disclaimer is barred or limited; creating s.  
6 739.501, F.S.; prescribing the effect of a  
7 tax-qualified disclaimer; creating s. 739.601,  
8 F.S.; providing for recording a disclaimer  
9 relating to real estate; creating s. 739.701,  
10 F.S.; prescribing the application to existing  
11 relationships; amending s. 731.201, F.S.;  
12 providing applicability of certain definitions  
13 to the act; repealing s. 689.21, F.S., relating  
14 to disclaimer of interests in property passing  
15 under certain nontestamentary instruments or  
16 under certain powers of appointment; repealing  
17 s. 732.801, F.S., relating to disclaimer of  
18 interests in property passing by will or  
19 intestate succession or under certain powers of  
20 appointment; providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:  
23

24 Section 1. Chapter 739, Florida Statutes, consisting  
25 of sections 739.101, 739.102, 739.103, 739.104, 739.201,  
26 739.202, 739.203, 739.204, 739.205, 739.206, 739.207, 739.301,  
27 739.401, 739.402, 739.501, 739.601, and 739.701, Florida  
28 Statutes, is created to read:

29 739.101 Short title.--This chapter may be cited as the  
30 "Florida Uniform Disclaimer of Property Interests Act."  
31

1           739.102 Definitions.--As used in this chapter, the  
2 term:  
3           (1) "Benefactor" means the creator of the interest  
4 that is subject to a disclaimer.  
5           (2) "Beneficiary designation" means an instrument,  
6 other than an instrument creating or amending a trust, naming  
7 the beneficiary of:  
8           (a) An annuity or insurance policy;  
9           (b) An account with a designation for payment on  
10 death;  
11           (c) A security registered in beneficiary form;  
12           (d) A pension, profit-sharing, retirement, or other  
13 employment-related benefit plan; or  
14           (e) Any other nonprobate transfer at death.  
15           (3) "Disclaimant" means the person to whom a  
16 disclaimed interest or power would have passed had the  
17 disclaimer not been made.  
18           (4) "Disclaimed interest" means the interest that  
19 would have passed to the disclaimant had the disclaimer not  
20 been made.  
21           (5) "Disclaimer" means the refusal to accept an  
22 interest in or power over property. The term includes a  
23 renunciation.  
24           (6) "Fiduciary" means a personal representative,  
25 trustee, agent acting under a power of attorney, guardian, or  
26 other person authorized to act as a fiduciary with respect to  
27 the property of another person.  
28           (7) "Future interest" means an interest that takes  
29 effect in possession or enjoyment, if at all, later than the  
30 time of its creation.  
31

1           (8) "Insolvent" means that the sum of a person's debts  
2 is greater than all of the person's assets at fair valuation.  
3 A person is presumed to be "insolvent" if the person is  
4 generally not paying his or her debts as they become due.

5           (9) "Jointly held property" means property held in the  
6 names of two or more persons under an arrangement in which all  
7 holders have concurrent interests and under which the last  
8 surviving holder is entitled to the whole of the property.  
9 Jointly held property does not include property held as  
10 tenants by the entirety.

11           (10) "Person" includes individuals, ascertained and  
12 unascertained, living or not living, whether entitled to an  
13 interest by right of intestacy or otherwise; a government,  
14 governmental subdivision, agency, or instrumentality; and a  
15 public corporation.

16           (11) "Time of distribution" means the time when a  
17 disclaimed interest would have taken effect in possession or  
18 enjoyment.

19           (12) "Trust" means:

20           (a) An express trust (including an honorary trust or a  
21 trust under s. 737.116), charitable or noncharitable, with  
22 additions thereto, whenever and however created; and

23           (b) A trust created pursuant to a statute, judgment,  
24 or decree which requires the trust be administered in the  
25 manner of an express trust.

26  
27 As used in this chapter, the term "trust" does not include a  
28 constructive trust or a resulting trust.

29           739.103 Scope.--This chapter applies to disclaimers of  
30 any interest in or power over property, whenever created.

31 Except as provided in s. 739.701, this chapter is the

1 exclusive means by which a disclaimer may be made under  
2 Florida law.

3 739.104 Power to disclaim; general requirements; when  
4 irrevocable.--

5 (1) A person may disclaim, in whole or in part,  
6 conditionally or unconditionally, any interest in or power  
7 over property, including a power or appointment. A person may  
8 disclaim the interest or power even if its creator imposed a  
9 spendthrift provision or similar restriction on transfer or a  
10 restriction or limitation on the right to disclaim. A  
11 disclaimer shall be unconditional unless the disclaimant  
12 explicitly provides otherwise in the disclaimer.

13 (2) With court approval, a fiduciary may disclaim, in  
14 whole or part, any interest in or power over property,  
15 including a power of appointment. Without court approval, a  
16 fiduciary may disclaim, in whole or in part, any interest in  
17 or power over property, including a power of appointment, if  
18 and to the extent that the instrument creating the fiduciary  
19 relationship explicitly grants the fiduciary the right to  
20 disclaim. In the absence of a court-appointed guardian,  
21 notwithstanding anything in chapter 744 to the contrary,  
22 without court approval, a natural guardian under s. 744.301  
23 may disclaim on behalf of a minor child of the natural  
24 guardian, in whole or in part, any interest in or power over  
25 property, including a power of appointment, which the minor  
26 child is to receive solely as a result of another disclaimer,  
27 but only if the disclaimed interest or power does not pass to  
28 or for the benefit of the natural guardian as a result of the  
29 disclaimer.

30 (3) To be effective, a disclaimer must be in writing,  
31 declare the writing as a disclaimer, describe the interest or

1 power disclaimed, and be signed by the person making the  
2 disclaimer and witnessed and acknowledged in the manner  
3 provided for deeds of real estate to be recorded in this  
4 state. In addition, for a disclaimer to be effective, an  
5 original of the disclaimer must be delivered or filed in the  
6 manner provided in s. 739.301.

7 (4) A partial disclaimer may be expressed as a  
8 fraction, percentage, monetary amount, term of years,  
9 limitation of a power, or any other interest or estate in the  
10 property.

11 (5) A disclaimer becomes irrevocable when any  
12 conditions to which the disclaimant has made the disclaimer  
13 subject are satisfied and when the disclaimer is delivered or  
14 filed pursuant to s. 739.301 or it becomes effective as  
15 provided in ss. 739.201-739.207, whichever occurs later.

16 (6) A disclaimer made under this chapter is not a  
17 transfer, assignment, or release.

18 739.201 Disclaimer of interest in property.--Except  
19 for a disclaimer governed by s. 739.202, s. 739.203, or s.  
20 739.204, the following rules apply to a disclaimer of an  
21 interest in property:

22 (1) The disclaimer takes effect as of the time the  
23 instrument creating the interest becomes irrevocable or, if  
24 the interest arose under the law of intestate succession, as  
25 of the time of the intestate's death.

26 (2) The disclaimed interest passes according to any  
27 provision in the instrument creating the interest providing  
28 explicitly for the disposition of the interest, should it be  
29 disclaimed, or of disclaimed interests in general.

30 (3) If the instrument does not contain a provision  
31 described in subsection (2), the following rules apply:

1       (a) If the disclaimant is an individual, the  
2 disclaimed interest passes as if the disclaimant has  
3 predeceased the benefactor, unless the disclaimed interest is  
4 a remainder contingent on surviving to the time of  
5 distribution, in which case the disclaimed interest passes as  
6 if the disclaimant had died immediately before the time for  
7 distribution. However, if, by law or under the instrument, the  
8 descendants of the disclaimant would share in the disclaimed  
9 interest by any method of representation had the disclaimant  
10 died before the time of distribution, the disclaimed interest  
11 passes only to the descendants of the disclaimant surviving at  
12 the time of distribution.

13       (b) If the disclaimant is not an individual, the  
14 disclaimed interest passes as if the disclaimant did not  
15 exist.

16       (c) Upon the disclaimer of a preceding interest, a  
17 future interest held by a person other than the disclaimant  
18 takes effect as if the disclaimant had died or ceased to exist  
19 immediately before the time of distribution, but a future  
20 interest held by the disclaimant is not accelerated in  
21 possession or enjoyment as a result of the disclaimer.

22       739.202 Disclaimer of rights of survivorship in  
23 jointly held property.--

24       (1) Upon the death of a holder of jointly held  
25 property:

26       (a) If, during the deceased holder's lifetime, the  
27 deceased holder could have unilaterally regained a portion of  
28 the property attributable to the deceased holder's  
29 contributions without the consent of any other holder, another  
30 holder may disclaim, in whole or in part, a fractional share  
31 of that portion of the property attributable to the deceased

1 holder's contributions determined by dividing the number one  
2 by the number of joint holders alive immediately after the  
3 death of the holder to whose death the disclaimer relates.

4 (b) For all other jointly held property, another  
5 holder may disclaim, in whole or in part, a fraction of the  
6 whole of the property the numerator of which is one and the  
7 denominator of which is the product of the number of joint  
8 holders alive immediately before the death of the holder to  
9 whose death the disclaimer relates multiplied by the number of  
10 joint holders alive immediately after the death of the holder  
11 to whose death the disclaimer relates.

12 (2) A disclaimer under subsection (1) takes effect as  
13 of the death of the holder of jointly held property to whose  
14 death the disclaimer relates.

15 (3) An interest in jointly held property disclaimed by  
16 a surviving holder of the property passes as if the  
17 disclaimant predeceased the holder to whose death the  
18 disclaimer relates.

19 739.203 Disclaimer of property held as tenancy by the  
20 entirety.--

21 (1) The survivorship interest in property held as a  
22 tenancy by the entirety to which the survivor succeeds by  
23 operation of law upon the death of the co-tenant may be  
24 disclaimed as provided in this chapter. For purposes of this  
25 chapter only, the deceased tenant's interest in property held  
26 as a tenancy by the entirety shall be deemed to be an  
27 undivided one-half interest.

28 (2) A disclaimer under subsection (1) takes effect as  
29 of the death of the deceased tenant to whose death the  
30 disclaimer relates.

31



1       (3) The survivorship interest in property held as a  
2 tenancy by the entirety disclaimed by the surviving tenant  
3 passes as if the disclaimant had predeceased the tenant to  
4 whose death the disclaimer relates.

5       (4) A disclaimer of an interest in real property held  
6 as tenants by the entirety does not cause the disclaimed  
7 interest to be homestead property for purposes of descent and  
8 distribution under ss. 732.401 and 732.4015.

9       739.204 Disclaimer of interest by trustee.--If a  
10 trustee having the power to disclaim under the instrument  
11 creating the fiduciary relationship or pursuant to court order  
12 disclaims an interest in property that otherwise would have  
13 become trust property, the interest does not become trust  
14 property.

15       739.205 Disclaimer of power of appointment or other  
16 power not held in a fiduciary capacity.--If a holder disclaims  
17 a power of appointment or other power not held in a fiduciary  
18 capacity, the following rules apply:

19       (1) If the holder has not exercised the power, the  
20 disclaimer takes effect as of the time the instrument creating  
21 the power becomes irrevocable.

22       (2) If the holder has exercised the power and the  
23 disclaimer is of a power other than a presently exercisable  
24 general power of appointment, the disclaimer takes effect  
25 immediately after the last exercise of the power.

26       (3) The instrument creating the power is construed as  
27 if the power expired when the disclaimer became effective.

28       739.206 Disclaimer by appointee, object, or taker in  
29 default of exercise of power of appointment.--

30       (1) A disclaimer of an interest in property by an  
31 appointee of a power of appointment takes effect as of the

1 time the instrument by which the holder exercises the power  
2 becomes irrevocable.

3 (2) A disclaimer of an interest in property by an  
4 object, or taker in default of an exercise of a power of  
5 appointment, takes effect as of the time the instrument  
6 creating the power becomes irrevocable.

7 739.207 Disclaimer of power held in fiduciary  
8 capacity.--

9 (1) If a fiduciary disclaims a power held in a  
10 fiduciary capacity which has not been exercised, the  
11 disclaimer takes effect as of the time the instrument creating  
12 the power becomes irrevocable.

13 (2) If a fiduciary disclaims a power held in a  
14 fiduciary capacity which has been exercised, the disclaimer  
15 takes effect immediately after the last exercise of the power.

16 (3) A disclaimer under this section is effective as to  
17 another fiduciary if the disclaimer so provides and the  
18 fiduciary disclaiming has the authority to bind the estate,  
19 trust, or other person for whom the fiduciary is acting.

20 739.301 Delivery or filing.--

21 (1) Subject to subsections (2) through (12), delivery  
22 of a disclaimer may be effected by personal delivery,  
23 first-class mail, or any other method that results in its  
24 receipt. A disclaimer sent by first-class mail shall be deemed  
25 to have been delivered on the date it is postmarked. Delivery  
26 by any other method shall be effective upon receipt by the  
27 person to whom the disclaimer is to be delivered under this  
28 section.

29 (2) In the case of a disclaimer of an interest created  
30 under the law of intestate succession or an interest created  
31 by will, other than an interest in a testamentary trust:

1       (a) The disclaimer must be delivered to the personal  
2 representative of the decedent's estate; or

3       (b) If no personal representative is serving when the  
4 disclaimer is sought to be delivered, the disclaimer must be  
5 filed with the clerk of the court in any county where venue of  
6 administration would be proper.

7       (3) In the case of a disclaimer of an interest in a  
8 testamentary trust:

9       (a) The disclaimer must be delivered to the trustee  
10 serving when the disclaimer is delivered or, if no trustee is  
11 then serving, to the personal representative of the decedent's  
12 estate; or

13       (b) If no personal representative is serving when the  
14 disclaimer is sought to be delivered, the disclaimer must be  
15 filed with the clerk of the court in any county where venue of  
16 administration of the decedent's estate would be proper.

17       (4) In the case of a disclaimer of an interest in an  
18 inter vivos trust:

19       (a) The disclaimer must be delivered to the trustee  
20 serving when the disclaimer is delivered;

21       (b) If no trustee is then serving, it must be filed  
22 with the clerk of the court in any county where the filing of  
23 a notice of trust would be proper; or

24       (c) If the disclaimer is made before the time the  
25 instrument creating the trust becomes irrevocable, the  
26 disclaimer must be delivered to the grantor of the revocable  
27 trust or the transferor of the interest or to such person's  
28 legal representative.

29       (5) In the case of a disclaimer of an interest created  
30 by a beneficiary designation made before the time the  
31 designation becomes irrevocable, the disclaimer must be

1 delivered to the person making the beneficiary designation or  
2 to such person's legal representative.

3 (6) In the case of a disclaimer of an interest created  
4 by a beneficiary designation made after the time the  
5 designation becomes irrevocable, the disclaimer must be  
6 delivered to the person obligated to distribute the interest.

7 (7) In the case of a disclaimer by a surviving holder  
8 of jointly held property, or by the surviving tenant in  
9 property held as a tenancy by the entirety, the disclaimer  
10 must be delivered to the person to whom the disclaimed  
11 interest passes or, if such person cannot reasonably be  
12 located by the disclaimant, the disclaimer must be delivered  
13 as provided in subsection (2).

14 (8) In the case of a disclaimer by an object, or taker  
15 in default of exercise, of a power of appointment at any time  
16 after the power was created:

17 (a) The disclaimer must be delivered to the holder of  
18 the power or to the fiduciary acting under the instrument that  
19 created the power; or

20 (b) If no fiduciary is serving when the disclaimer is  
21 sought to be delivered, the disclaimer must be filed with a  
22 court having authority to appoint the fiduciary.

23 (9) In the case of a disclaimer by an appointee of a  
24 nonfiduciary power of appointment:

25 (a) The disclaimer must be delivered to the holder,  
26 the personal representative of the holder's estate, or the  
27 fiduciary under the instrument that created the power; or

28 (b) If no fiduciary is serving when the disclaimer is  
29 sought to be delivered, the disclaimer must be filed with a  
30 court having authority to appoint the fiduciary.

31

1           (10) In the case of a disclaimer by a fiduciary of a  
2 power over a trust or estate, the disclaimer must be delivered  
3 as provided in subsection (2), subsection (3), or subsection  
4 (4) as if the power disclaimed were an interest in property.

5           (11) In the case of a disclaimer of a power  
6 exercisable by an agent, other than a power exercisable by a  
7 fiduciary over a trust or estate, the disclaimer must be  
8 delivered to the principal or the principal's representative.

9           (12) Notwithstanding subsection (1), delivery of a  
10 disclaimer of an interest in or relating to real estate shall  
11 be presumed upon the recording of the disclaimer in the office  
12 of the clerk of the court of the county or counties where the  
13 real estate is located.

14           (13) A fiduciary or other person having custody of the  
15 disclaimed interest is not liable for any otherwise proper  
16 distribution or other disposition made without actual notice  
17 of the disclaimer or, if the disclaimer is barred under s.  
18 739.402, for any otherwise proper distribution or other  
19 disposition made in reliance on the disclaimer, if the  
20 distribution or disposition is made without actual knowledge  
21 of the facts constituting the bar of the right to disclaim.

22           739.401 When disclaimer is permitted.--A disclaimer  
23 may be made at any time unless barred under s. 739.402.

24           739.402 When disclaimer is barred or limited.--

25           (1) A disclaimer is barred by a written waiver of the  
26 right to disclaim.

27           (2) A disclaimer of an interest in property is barred  
28 if any of the following events occur before the disclaimer  
29 becomes effective:

30           (a) The disclaimer accepts the interest sought to be  
31 disclaimed;

1           (b) The disclaimant voluntarily assigns, conveys,  
2 encumbers, pledges, or transfers the interest sought to be  
3 disclaimed or contracts to do so;

4           (c) The interest sought to be disclaimed is sold  
5 pursuant to a judicial sale; or

6           (d) The disclaimant is insolvent with the disclaimer  
7 becomes irrevocable.

8           (3) A disclaimer, in whole or in part, of the future  
9 exercise of a power held in a fiduciary capacity is not barred  
10 by its previous exercise.

11           (4) A disclaimer, in whole or in part, of the future  
12 exercise of a power not held in a fiduciary capacity is not  
13 barred by its previous exercise unless the power is  
14 exercisable in favor of the disclaimant.

15           (5) A disclaimer of an interest in, or a power over,  
16 property which is barred by this section is ineffective.

17           739.501 Tax-qualified disclaimer.--Notwithstanding any  
18 other provision of this chapter, if, as a result of a  
19 disclaimer or transfer, the disclaimed or transferred interest  
20 is treated pursuant to the provisions of s. 2518 of the  
21 Internal Revenue Code of 1986 as never having been transferred  
22 to the disclaimant, the disclaimer or transfer is effective as  
23 a disclaimer under this chapter.

24           739.601 Recording of disclaimer relating to real  
25 estate.--

26           (1) A disclaimer of an interest in or relating to real  
27 estate does not provide constructive notice to all persons  
28 unless the disclaimer contains a legal description of the real  
29 estate to which the disclaimer relates and unless the  
30 disclaimer is filed for recording in the office of the clerk  
31

1 of the court in the county or counties where the real estate  
2 is located.

3 (2) An effective disclaimer meeting the requirements  
4 of subsection (1) constitutes constructive notice to all  
5 persons from the time of filing. Failure to record the  
6 disclaimer does not affect its validity as between the  
7 disclaimant and persons to whom the property interest or power  
8 passes by reason of the disclaimer.

9 739.701 Application to existing relationships.--Except  
10 as otherwise provided in s. 739.402, an interest in or power  
11 over property existing on July 1, 2005, as to which the time  
12 for delivering or filing a disclaimer under laws superseded by  
13 this chapter has not expired, may be disclaimed after July 1,  
14 2005.

15 Section 2. Section 731.201, Florida Statutes, is  
16 amended to read:

17 731.201 General definitions.--Subject to additional  
18 definitions in subsequent chapters that are applicable to  
19 specific chapters or parts, and unless the context otherwise  
20 requires, in this code, in s. 409.9101, and in chapters 737,  
21 738, 739, and 744, the term:

22 (1) "Authenticated," when referring to copies of  
23 documents or judicial proceedings required to be filed with  
24 the court under this code, means ~~shall mean~~ a certified copy  
25 or a copy authenticated according to the Federal Rules of  
26 Civil Procedure.

27 (2) "Beneficiary" means heir at law in an intestate  
28 estate and devisee in a testate estate. The term "beneficiary"  
29 does not apply to an heir at law or a devisee after that  
30 person's interest in the estate has been satisfied. In the  
31 case of a devise to an existing trust or trustee, or to a

1 trust or trustee described by will, the trustee is a  
2 beneficiary of the estate. Except as otherwise provided in  
3 this subsection, the beneficiary of the trust is not a  
4 beneficiary of the estate of which that trust or the trustee  
5 of that trust is a beneficiary. However, if each trustee is  
6 also a personal representative of the estate, the beneficiary  
7 or beneficiaries of the trust as defined in s. 737.303(4)(b)  
8 shall be regarded as a beneficiary of the estate.

9 (3) "Child" includes a person entitled to take as a  
10 child under this code by intestate succession from the parent  
11 whose relationship is involved, and excludes any person who is  
12 only a stepchild, a foster child, a grandchild, or a more  
13 remote descendant.

14 (4) "Claim" means a liability of the decedent, whether  
15 arising in contract, tort, or otherwise, and funeral expense.  
16 The term does not include an expense of administration or  
17 estate, inheritance, succession, or other death taxes.

18 (5) "Clerk" means the clerk or deputy clerk of the  
19 court.

20 (6) "Court" means the circuit court.

21 (7) "Curator" means a person appointed by the court to  
22 take charge of the estate of a decedent until letters are  
23 issued.

24 (8) "Devise," when used as a noun, means a  
25 testamentary disposition of real or personal property and,  
26 when used as a verb, means to dispose of real or personal  
27 property by will or trust. The term includes "gift," "give,"  
28 "bequeath," "bequest," and "legacy." A devise is subject to  
29 charges for debts, expenses, and taxes as provided in this  
30 code, the will, or the trust.

31



1           (9) "Devisee" means a person designated in a will or  
2 trust to receive a devise. Except as otherwise provided in  
3 this subsection, in the case of a devise to an existing trust  
4 or trustee, or to a trust or trustee of a trust described by  
5 will, the trust or trustee, rather than the beneficiaries of  
6 the trust, is the devisee. However, if each trustee is also a  
7 personal representative of the estate, the beneficiary or  
8 beneficiaries of the trust as defined in s. 737.303(4)(b)  
9 shall be regarded as a devisee.

10           (10) "Distributee" means a person who has received  
11 estate property from a personal representative or other  
12 fiduciary other than as a creditor or purchaser. A  
13 testamentary trustee is a distributee only to the extent of  
14 distributed assets or increments to them remaining in the  
15 trustee's hands. A beneficiary of a testamentary trust to  
16 whom the trustee has distributed property received from a  
17 personal representative is a distributee. For purposes of this  
18 provision, "testamentary trustee" includes a trustee to whom  
19 assets are transferred by will, to the extent of the devised  
20 assets.

21           (11) "Domicile" means a person's usual place of  
22 dwelling and shall be synonymous with residence.

23           (12) "Estate" means the property of a decedent that is  
24 the subject of administration.

25           (13) "Exempt property" means the property of a  
26 decedent's estate which is described in s. 732.402.

27           (14) "File" means to file with the court or clerk.

28           (15) "Foreign personal representative" means a  
29 personal representative of another state or a foreign country.

30           (16) "Formal notice" means formal notice under the  
31 Florida Probate Rules.

1           (17) "Grantor" means one who creates or adds to a  
2 trust and includes "settlor" or "trustor" and a testator who  
3 creates or adds to a trust.

4           (18) "Heirs" or "heirs at law" means those persons,  
5 including the surviving spouse, who are entitled under the  
6 statutes of intestate succession to the property of a  
7 decedent.

8           (19) "Incompetent" means a minor or a person  
9 adjudicated incompetent.

10           (20) "Informal notice" or "notice" means informal  
11 notice under the Florida Probate Rules.

12           (21) "Interested person" means any person who may  
13 reasonably be expected to be affected by the outcome of the  
14 particular proceeding involved. In any proceeding affecting  
15 the estate or the rights of a beneficiary in the estate, the  
16 personal representative of the estate shall be deemed to be an  
17 interested person. In any proceeding affecting the expenses of  
18 the administration and obligations of a decedent's estate, or  
19 any claims described in s. 733.702(1), the trustee of a trust  
20 described in s. 733.707(3) is an interested person in the  
21 administration of the grantor's estate. The term does not  
22 include a beneficiary who has received complete distribution.  
23 The meaning, as it relates to particular persons, may vary  
24 from time to time and must be determined according to the  
25 particular purpose of, and matter involved in, any  
26 proceedings.

27           (22) "Letters" means authority granted by the court to  
28 the personal representative to act on behalf of the estate of  
29 the decedent and refers to what has been known as letters  
30 testamentary and letters of administration. All letters shall  
31 be designated "letters of administration."

1           (23) "Other state" means any state of the United  
2 States other than Florida and includes the District of  
3 Columbia, the Commonwealth of Puerto Rico, and any territory  
4 or possession subject to the legislative authority of the  
5 United States.

6           (24) "Parent" excludes any person who is only a  
7 stepparent, foster parent, or grandparent.

8           (25) "Personal representative" means the fiduciary  
9 appointed by the court to administer the estate and refers to  
10 what has been known as an administrator, administrator cum  
11 testamento annexo, administrator de bonis non, ancillary  
12 administrator, ancillary executor, or executor.

13           (26) "Petition" means a written request to the court  
14 for an order.

15           (27) "Probate of will" means all steps necessary to  
16 establish the validity of a will and to admit a will to  
17 probate.

18           (28) "Property" means both real and personal property  
19 or any interest in it and anything that may be the subject of  
20 ownership.

21           (29) "Protected homestead" means the property  
22 described in s. 4(a)(1), Art. X of the State Constitution on  
23 which at the death of the owner the exemption inures to the  
24 owner's surviving spouse or heirs under s. 4(b), Art. X of the  
25 State Constitution. For purposes of the code, real property  
26 owned as tenants by the entirety is not protected homestead.

27           (30) "Residence" means a person's place of dwelling.

28           (31) "Residuary devise" means a devise of the assets  
29 of the estate which remain after the provision for any devise  
30 which is to be satisfied by reference to a specific property  
31 or type of property, fund, sum, or statutory amount. If the

1 will contains no devise which is to be satisfied by reference  
2 to a specific property or type of property, fund, sum, or  
3 statutory amount, "residuary devise" or "residue" means a  
4 devise of all assets remaining after satisfying the  
5 obligations of the estate.

6 (32) "Security" means a security as defined in s.  
7 517.021.

8 (33) "Security interest" means a security interest as  
9 defined in s. 671.201.

10 (34) "Trust" means an express trust, private or  
11 charitable, with additions to it, wherever and however  
12 created. It also includes a trust created or determined by a  
13 judgment or decree under which the trust is to be administered  
14 in the manner of an express trust. "Trust" excludes other  
15 constructive trusts, and it excludes resulting trusts;  
16 conservatorships; custodial arrangements pursuant to the  
17 Florida Uniform Transfers to Minors Act; business trusts  
18 providing for certificates to be issued to beneficiaries;  
19 common trust funds; land trusts under s. 689.05; trusts  
20 created by the form of the account or by the deposit agreement  
21 at a financial institution; voting trusts; security  
22 arrangements; liquidation trusts; trusts for the primary  
23 purpose of paying debts, dividends, interest, salaries, wages,  
24 profits, pensions, or employee benefits of any kind; and any  
25 arrangement under which a person is nominee or escrowee for  
26 another.

27 (35) "Trustee" includes an original, additional,  
28 surviving, or successor trustee, whether or not appointed or  
29 confirmed by court.

30 (36) "Will" means an instrument, including a codicil,  
31 executed by a person in the manner prescribed by this code,

1 | which disposes of the person's property on or after his or her  
2 | death and includes an instrument which merely appoints a  
3 | personal representative or revokes or revises another will.

4 |           Section 3. Sections 689.21 and 732.801, Florida  
5 | Statutes, are repealed.

6 |           Section 4. This act shall take effect July 1, 2005.

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9 |                                 SENATE SUMMARY

10 |         Creates the Florida Uniform Disclaimer of Property  
11 |         Interests Act, to provide rules and guidelines for  
12 |         persons to disclaim interests in property. Repeals  
13 |         provisions supplanted by the act.

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