



1           Section 1. Section 689.072, Florida Statutes, is  
2 created to read:

3           689.072 Real estate interests transferred to or by a  
4 custodian or trustee of an individual retirement account or  
5 qualified plan.--

6           (1)(a) A conveyance, deed, mortgage, lease assignment,  
7 or other recorded instrument that transfers an interest in  
8 real property in this state, including a leasehold or  
9 mortgagee interest, to a person who is qualified to act as a  
10 custodian or trustee for an individual retirement account  
11 under 26 U.S.C. s. 408(a)(2), as amended, in which instrument  
12 the transferee is designated "custodian," "as custodian,"  
13 "trustee," or "as trustee" and the account owner or  
14 beneficiary of the custodianship in the individual retirement  
15 account is named, creates custodial property and transfers  
16 title to the custodian or trustee when an interest in real  
17 property is recorded in the name of the custodian or trustee,  
18 followed by the words "as custodian, or trustee, for the  
19 benefit of (name of individual retirement account owner or  
20 beneficiary) IRA."

21           (b) This section also applies to a qualified stock  
22 bonus, pension, or profit-sharing plan created under 26 U.S.C.  
23 s. 401(a), as amended, in which instrument a person is  
24 designated "custodian," "as custodian," "trustee," or "as  
25 trustee" and the plan, plan participant, or plan beneficiary  
26 of the custodianship in the plan also creates custodial  
27 property and transfers title to the custodian or trustee when  
28 an interest in real property is recorded in the name of the  
29 custodian or trustee, followed by the words "as custodian, or  
30 trustee, of the (name of plan) for the benefit of (name of  
31 plan participant or beneficiary)."

1           (2) A transfer to a custodian or trustee of an  
2 individual retirement account or qualified plan pursuant to  
3 this section incorporates the provisions of this section into  
4 the disposition and grants to the custodian or trustee the  
5 power to protect, conserve, sell, lease, encumber, or  
6 otherwise manage and dispose of the real property described in  
7 the recorded instrument without the joinder of the named  
8 individual retirement account owner, plan participant, or  
9 beneficiary, except as provided in subsection (5).

10           (3) A person dealing with the custodian or trustee  
11 does not have a duty to inquire into the qualifications of the  
12 custodian or trustee and may rely on the powers of the  
13 custodian or trustee for the custodial property created under  
14 this section regardless of whether such powers are specified  
15 in the recorded instrument. A grantee, mortgagee, lessee,  
16 transferee, assignee, or person obtaining a satisfaction or  
17 release or otherwise dealing with the custodian or trustee  
18 regarding such custodial property is not required to:

19           (a) Inquire into the identification or status of any  
20 named individual retirement account owner, plan participant,  
21 or beneficiary of the individual retirement account or  
22 qualified plan or his or her heirs or assigns to whom the  
23 custodian or trustee may be accountable under the provisions  
24 of the individual retirement account agreement or qualified  
25 plan document;

26           (b) Inquire into the authority of the custodian or  
27 trustee to act within and exercise the powers granted under  
28 the individual retirement account agreement or qualified plan  
29 document;

30           (c) Inquire into the adequacy or disposition or any  
31 consideration provided to the custodian or trustee in

1 connection with any interest acquired from such custodian or  
2 trustee; or

3 (d) Inquire into any provision of an individual  
4 retirement account agreement or qualified plan document.

5 (4) A person dealing with the custodian or trustee  
6 under the recorded instrument takes any interest transferred  
7 by such custodian or trustee, within the authority provided  
8 under this section, free of claims of the named owner, plan  
9 participant, or beneficiary of the individual retirement  
10 account or qualified plan or of anyone claiming by, through,  
11 or under such owner, plan participant, or beneficiary.

12 (5) If notice of the revocation or termination of an  
13 individual retirement account agreement, qualified plan, or  
14 custodianship established under such individual retirement  
15 account or qualified plan is recorded, any disposition or  
16 encumbrance of the custodian property must be by an instrument  
17 executed by the custodian or trustee or the successor and the  
18 respective owner, plan participant, or beneficiary of the  
19 individual retirement account or qualified plan.

20 (6) In dealing with custodial property created under  
21 this section, a custodian or trustee must observe the standard  
22 of care of a prudent person dealing with the property of  
23 another person. This section does not relieve the custodian or  
24 trustee from liability for breach of the individual retirement  
25 account agreement, custodial agreement, or qualified plan  
26 document.

27 (7) A provision of the recorded instrument which  
28 defines and declares the interest of the owner, plan  
29 participant, or beneficiary of the individual retirement  
30 account or qualified plan to be personal property controls  
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1 only if a determination becomes an issue in any legal  
2 proceeding.

3 (8) As used in this section, the term "beneficiary"  
4 applies only when the individual account owner or qualified  
5 plan participant is deceased.

6 (9)(a) This section does not apply to any deed,  
7 mortgage, or instrument to which s. 689.071 applies.

8 (b) Section 689.09 does not apply to transfers of real  
9 property interests to a custodian or trustee under this  
10 section.

11 (10) This section is remedial and shall be liberally  
12 construed to effectively carry out its purposes.

13 Section 2. Section 694.17, Florida Statutes, is  
14 created to read:

15 694.17 Validation of conveyances to custodian or  
16 trustee of an individual retirement account or qualified  
17 plan.--A conveyance, deed, mortgage, lease assignment, or  
18 other recorded instrument transferring an interest in real  
19 property in this state to a custodian or trustee which was  
20 recorded before July 1, 2006, but which would be within the  
21 scope of s. 689.072 if recorded after that date, is ratified,  
22 confirmed, and validated in all respects, and shall be deemed  
23 to have vested such interest in the custodian or trustee  
24 without reversion or impairment as if such instrument had been  
25 recorded after July 1, 2006, and s. 689.09 does not apply to  
26 any such instrument regardless of when recorded.

27 Section 3. This act shall take effect July 1, 2006.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1434

1. The committee substitute provides for retroactivity in applying the provisions of the bill to transfers involving existing Individual Retirement Accounts (IRA) or qualifying plans, which were recorded before July 1, 2006, the effective date of the bill.
2. The bill also clarifies that the provisions relating to the real estate interests transferred to or by a custodian or trustee of an IRA or qualified plan do not apply to any deed, mortgage, or instrument to which provisions relating to land transfer under s. 689.071, F.S.