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CS/HB 599

2009 Legislature

1 A bill to be entitled
2 An act relating to administration of estates; amending s.
3 731.201, F.S.; revising definitions; amending s. 732.108,
4 F.S.; providing for nonapplication of certain limitations
5 of actions provisions to certain paternity determinations;
6 amending s. 732.2025, F.S.; revising a definition;
7 amending s. 732.2045, F.S.; expanding an exclusion from
8 application of certain provisions of law; amending s.
9 732.2075, F.S.; revising provisions for satisfaction of an
10 elective share; providing additional requirements;
11 amending s. 732.2085, F.S.; correcting a cross-reference;
12 amending s. 732.2135, F.S.; revising criteria for time of
13 an election; providing for award of attorney fees and
14 costs for elections made in bad faith; amending s.
15 732.402, F.S.; revising criteria for certain household
16 items, motor vehicles, and tuition programs as exempt
17 property; amending s. 733.201, F.S.; revising a criterion
18 for proof of wills to conform; amending s. 733.504, F.S.;
19 revising a criterion for removal of a personal
20 representative to conform; amending s. 733.602, F.S.;
21 removing a cross-reference; amending s. 735.203, F.S.;
22 revising requirements for a petition for summary
23 administration; amending s. 739.102, F.S.; revising a
24 definition; amending s. 739.104, F.S.; excluding from
25 court approval certain disclaimers of interests in
26 property; amending s. 739.201, F.S.; providing an
27 additional rule applicable to disclaimers of interests in
28 property ;amending s. 739.207, F.S.; limiting a criterion

ENROLLED
CS/HB 599

2009 Legislature

29 | for effectiveness of a disclaimer of power held in a
30 | fiduciary capacity; amending s. 739.402, F.S.; correcting
31 | terminology; amending s. 739.501, F.S.; preserving
32 | application of certain provisions to effectiveness of
33 | certain disclaimers or transfers; amending ss. 660.417,
34 | 736.0802, and 895.02, F.S.; correcting cross-references to
35 | conform; providing an effective date.

36 |

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

38 |

39 | Section 1. Subsection (21) of section 731.201, Florida
40 | Statutes, is amended, subsections (25) through (39) of that
41 | section are renumbered as subsections (26) through (40),
42 | respectively, and a new subsection (25) is added to that
43 | section, to read:

44 | 731.201 General definitions.--Subject to additional
45 | definitions in subsequent chapters that are applicable to
46 | specific chapters or parts, and unless the context otherwise
47 | requires, in this code, in s. 409.9101, and in chapters 736,
48 | 738, 739, and 744, the term:

49 | (21) "Incapacitated" ~~"Incompetent"~~ means a judicial
50 | determination that a person lacks the capacity to manage at
51 | least some of the person's property or to meet at least some of
52 | the person's essential health and safety requirements. A minor
53 | shall be treated as being incapacitated ~~or a person adjudicated~~
54 | ~~incompetent.~~

55 | (25) "Minor" means a person under 18 years of age whose
56 | disabilities have not been removed by marriage or otherwise.

ENROLLED
CS/HB 599

2009 Legislature

57 Section 2. Paragraph (b) of subsection (2) of section
58 732.108, Florida Statutes, is amended to read:

59 732.108 Adopted persons and persons born out of wedlock.--

60 (2) For the purpose of intestate succession in cases not
61 covered by subsection (1), a person born out of wedlock is a
62 descendant of his or her mother and is one of the natural
63 kindred of all members of the mother's family. The person is
64 also a descendant of his or her father and is one of the natural
65 kindred of all members of the father's family, if:

66 (b) The paternity of the father is established by an
67 adjudication before or after the death of the father. Chapter 95
68 shall not apply in determining heirs in a probate proceeding
69 under this paragraph.

70 Section 3. Subsection (10) of section 732.2025, Florida
71 Statutes, is amended to read:

72 732.2025 Definitions.--As used in ss. 732.2025-732.2155,
73 the term:

74 (10) "Transfer in satisfaction of the elective share"
75 means an irrevocable transfer by the decedent during life to an
76 elective share trust.

77 Section 4. Paragraph (f) of subsection (1) of section
78 732.2045, Florida Statutes, is amended to read:

79 732.2045 Exclusions and overlapping application.--

80 (1) EXCLUSIONS.--Section 732.2035 does not apply to:

81 (f) The decedent's one-half of the property to which ss.
82 732.216-732.228, or any similar provisions of law of another
83 state, apply and real property that is community property under
84 the laws of the jurisdiction where it is located.

ENROLLED
CS/HB 599

2009 Legislature

85 Section 5. Section 732.2075, Florida Statutes, is amended
86 to read:

87 732.2075 Sources from which elective share payable;
88 abatement.--

89 (1) Unless otherwise provided in the decedent's will or,
90 in the absence of a provision in the decedent's will, in a trust
91 referred to in the decedent's will, the following are applied
92 first to satisfy the elective share:

93 (a) Property interests included in the elective estate
94 that pass or have passed to or for the benefit of the surviving
95 spouse, including interests that are contingent upon making the
96 election, but only to the extent that such contingent interests
97 do not diminish other property interests that would be applied
98 to satisfy the elective share in the absence of the contingent
99 interests. ~~To the extent paid to or for the benefit of the~~
100 ~~surviving spouse, the proceeds of any term or other policy of~~
101 ~~insurance on the decedent's life if, at the time of decedent's~~
102 ~~death, the policy was owned by any person other than the~~
103 ~~surviving spouse.~~

104 (b) To the extent paid to or for the benefit of the
105 surviving spouse, amounts payable under any plan or arrangement
106 described in s. 732.2035(7).

107 (c) To the extent paid to or for the benefit of the
108 surviving spouse, the decedent's one-half of any property
109 described in s. 732.2045(1)(f).

110 (d) To the extent paid to or for the benefit of the
111 surviving spouse, the proceeds of any term or other policy of
112 insurance on the decedent's life if, at the time of decedent's

ENROLLED
CS/HB 599

2009 Legislature

113 death, the policy was owned by any person other than the
114 surviving spouse.

115 ~~(e)-(d)~~ Property held for the benefit of the surviving
116 spouse in a qualifying special needs trust.

117 ~~(e) Property interests included in the elective estate~~
118 ~~that pass or have passed to or for the benefit of the surviving~~
119 ~~spouse, including interests that are contingent upon making the~~
120 ~~election, but only to the extent that such contingent interests~~
121 ~~do not diminish other property interests that would be applied~~
122 ~~to satisfy the elective share in the absence of the contingent~~
123 ~~interests.~~

124 (f) Property interests that would have satisfied the
125 elective share under any preceding paragraph of this subsection
126 but were disclaimed.

127 (2) If, after the application of subsection (1), the
128 elective share is not fully satisfied, the unsatisfied balance
129 shall be allocated entirely to one class of ~~apportioned among~~
130 ~~the~~ direct recipients of the remaining elective estate and
131 apportioned among those recipients, and if the elective share
132 amount is not fully satisfied, to the next class of direct
133 recipients, in the following order of priority, until the
134 elective share amount is satisfied:

135 (a) Class 1.--The decedent's probate estate and revocable
136 trusts.

137 (b) Class 2.--Recipients of property interests, other than
138 protected charitable interests, included in the elective estate
139 under s. 732.2035(2), (3), or (6) and, to the extent the
140 decedent had at the time of death the power to designate the

ENROLLED
CS/HB 599

2009 Legislature

141 recipient of the property, property interests, other than
142 protected charitable interests, included under s. 732.2035(5)
143 and (7).

144 (c) Class 3.--Recipients of all other property interests,
145 other than protected charitable interests, included in the
146 elective estate.

147 ~~(d) Class 4.--Recipients of protected charitable lead~~
148 ~~interests, but only to the extent and at such times that~~
149 ~~contribution is permitted without disqualifying the charitable~~
150 ~~interest in that property for a deduction under the United~~
151 ~~States gift tax laws.~~

152
153 For purposes of this subsection, a protected charitable interest
154 is any interest for which a charitable deduction with respect to
155 the transfer of the property was allowed or allowable to the
156 decedent or the decedent's spouse under the United States gift
157 or income tax laws. ~~A protected charitable lead interest is a~~
158 ~~protected charitable interest where one or more deductible~~
159 ~~interests in charity precede some other nondeductible interest~~
160 ~~or interests in the property.~~

161 (3) If, after the application of subsections (1) and (2),
162 the elective share amount is not fully satisfied, the additional
163 amount due to the surviving spouse shall be determined and
164 satisfied as follows:

165 (a) The remaining unsatisfied balance shall be satisfied
166 from property described in paragraphs (1) (a) and (b) which
167 passes or which has passed in a trust in which the surviving
168 spouse has a beneficial interest, other than an elective share

ENROLLED
CS/HB 599

2009 Legislature

169 trust or a qualified special needs trust.

170 (b) In determining the amount of the remaining unsatisfied
 171 balance, the effect, if any, of any change caused by the
 172 operation of this subsection in the value of the spouse's
 173 beneficial interests in property described in paragraphs (1) (a)
 174 and (b) shall be taken into account, including, if necessary,
 175 further recalculations of the value of those beneficial
 176 interests.

177 (c) If there is more than one trust to which this
 178 subsection could apply, unless otherwise provided in the
 179 decedent's will or, in the absence of a provision in the
 180 decedent's will, in a trust referred to in the decedent's will,
 181 the unsatisfied balance shall be apportioned pro rata to all
 182 such trusts in proportion to the value, as determined under s.
 183 732.2095(2) (d), of the surviving spouse's beneficial interests
 184 in the trusts.

185 (4) If, after the application of subsections (1), (2), and
 186 (3), the elective share is not fully satisfied, any remaining
 187 unsatisfied balance shall be satisfied from direct recipients of
 188 protected charitable lead interests, but only to the extent and
 189 at such times that contribution is permitted without
 190 disqualifying the charitable interest in that property for a
 191 deduction under the United States gift tax laws. For purposes of
 192 this subsection, a protected charitable lead interest is a
 193 protected charitable interest as defined in subsection (2) in
 194 which one or more deductible interests in charity precede some
 195 other nondeductible interest or interests in the property.

ENROLLED
CS/HB 599

2009 Legislature

196 (5)~~(3)~~ The contribution required of the decedent's probate
197 estate and revocable trusts may be made in cash or in kind. In
198 the application of this subsection, subsections (6) ~~(4)~~ and (7)
199 ~~(5)~~ are to be applied to charge contribution for the elective
200 share to the beneficiaries of the probate estate and revocable
201 trusts as if all beneficiaries were taking under a common
202 governing instrument.

203 (6)~~(4)~~ Unless otherwise provided in the decedent's will
204 or, in the absence of a provision in the decedent's will, in a
205 trust referred to in the decedent's will, any amount to be
206 satisfied from the decedent's probate estate, other than from
207 property passing to an inter vivos trust, shall be paid from the
208 assets of the probate estate in the order prescribed in s.
209 733.805.

210 (7)~~(5)~~ Unless otherwise provided in the trust instrument
211 or, in the decedent's will if there is no provision in the trust
212 instrument, any amount to be satisfied from trust property shall
213 be paid from the assets of the trust in the order provided for
214 claims under s. 736.05053(2) and (3). A direction in the
215 decedent's will is effective only for revocable trusts.

216 Section 6. Paragraph (a) of subsection (1) of section
217 732.2085, Florida Statutes, is amended to read:

218 732.2085 Liability of direct recipients and
219 beneficiaries.--

220 (1) Only direct recipients of property included in the
221 elective estate and the beneficiaries of the decedent's probate
222 estate or of any trust that is a direct recipient, are liable to
223 contribute toward satisfaction of the elective share.

ENROLLED
CS/HB 599

2009 Legislature

224 (a) Within each of the classes described in s.
225 732.2075(2) (b) and, (c) ~~and~~ (d), each direct recipient is
226 liable in an amount equal to the value, as determined under s.
227 732.2055, of the proportional part of the liability for all
228 members of the class.

229 Section 7. Subsection (3) of section 732.2135, Florida
230 Statutes, is amended, and subsection (5) is added to that
231 section, to read:

232 732.2135 Time of election; extensions; withdrawal.--

233 (3) The surviving spouse or an attorney in fact, guardian
234 of the property, or personal representative of the surviving
235 spouse may withdraw an election at any time within ~~on or before~~
236 ~~the earlier of the date that is 8 months after the date of the~~
237 ~~decedent's death~~ and before the court's ~~or the date of a court~~
238 ~~order of contribution. If an election is withdrawn, the court~~
239 ~~may assess attorney's fees and costs against the surviving~~
240 ~~spouse or the surviving spouse's estate.~~

241 (5) If the court determines that an election is made or
242 pursued in bad faith, the court may assess attorney's fees and
243 costs against the surviving spouse or the surviving spouse's
244 estate.

245 Section 8. Subsection (2) of section 732.402, Florida
246 Statutes, is amended to read:

247 732.402 Exempt property.--

248 (2) Exempt property shall consist of:

249 (a) Household furniture, furnishings, and appliances in
250 the decedent's usual place of abode up to a net value of \$20,000
251 ~~\$10,000~~ as of the date of death.

ENROLLED
CS/HB 599

2009 Legislature

252 (b) Two motor vehicles as defined in s. 316.003(21), which
 253 do not, individually as to either such motor vehicle, have a
 254 gross vehicle weight in excess of 15,000 pounds, ~~All automobiles~~
 255 held in the decedent's name and regularly used by the decedent
 256 or members of the decedent's immediate family as their personal
 257 motor vehicles ~~automobiles~~.

258 (c) All qualified tuition programs authorized by s. 529 of
 259 the Internal Revenue Code of 1986, as amended, including, but
 260 not limited to, the Florida Prepaid College Trust Fund advance
 261 payment contracts under s. 1009.98 and the Florida Prepaid
 262 College Trust Fund participation agreements under s. 1009.981
 263 ~~Stanley G. Tate Florida Prepaid College Program contracts~~
 264 ~~purchased and Florida College Savings agreements established~~
 265 ~~under part IV of chapter 1009.~~

266 (d) All benefits paid pursuant to s. 112.1915.
 267 Section 9. Subsection (3) of section 733.201, Florida
 268 Statutes, is amended to read:

269 733.201 Proof of wills.--

270 (3) If it appears to the court that the attesting
 271 witnesses cannot be found or that they have become incapacitated
 272 ~~incompetent~~ after the execution of the will or their testimony
 273 cannot be obtained within a reasonable time, a will may be
 274 admitted to probate upon the oath of the personal representative
 275 nominated by the will as provided in subsection (2), whether or
 276 not the nominated personal representative is interested in the
 277 estate, or upon the oath of any person having no interest in the
 278 estate under the will stating that the person believes the
 279 writing exhibited to be the true last will of the decedent.

ENROLLED
CS/HB 599

2009 Legislature

280 Section 10. Subsection (1) of section 733.504, Florida
281 Statutes, is amended to read:

282 733.504 Removal of personal representative; causes for
283 removal.--A personal representative may be removed and the
284 letters revoked for any of the following causes, and the removal
285 shall be in addition to any penalties prescribed by law:

286 (1) Adjudication that the personal representative is
287 incapacitated ~~of incompetency~~.

288 Section 11. Subsection (1) of section 733.602, Florida
289 Statutes, is amended to read:

290 733.602 General duties.--

291 (1) A personal representative is a fiduciary who shall
292 observe the standards of care applicable to trustees ~~as~~
293 ~~described by part VII of chapter 736~~. A personal representative
294 is under a duty to settle and distribute the estate of the
295 decedent in accordance with the terms of the decedent's will and
296 this code as expeditiously and efficiently as is consistent with
297 the best interests of the estate. A personal representative
298 shall use the authority conferred by this code, the authority in
299 the will, if any, and the authority of any order of the court,
300 for the best interests of interested persons, including
301 creditors.

302 Section 12. Section 735.203, Florida Statutes, is amended
303 to read:

304 735.203 Petition for summary administration.--

305 (1) A petition for summary administration may be filed by
306 any beneficiary or person nominated as personal representative
307 in the decedent's will offered for probate. The petition must be

ENROLLED
CS/HB 599

2009 Legislature

308 signed and verified by the surviving spouse, if any, and any
309 beneficiaries except that the joinder in a petition for summary
310 administration is not required of a beneficiary who will receive
311 full distributive share under the proposed distribution. Any
312 beneficiary not joining shall be served by formal notice with
313 the petition.

314 (2) If a person named in subsection (1) has died, is
315 incapacitated, or is a minor, or has conveyed or transferred all
316 interest in the property of the estate, then, as to that person,
317 the petition must be signed and verified ~~eertified~~ by:

318 (a) The personal representative, if any, of a deceased
319 person or, if none, the surviving spouse, if any, and the
320 beneficiaries;

321 (b) The guardian of an incapacitated person or a minor; or

322 (c) The grantee or transferee of any of them shall be
323 authorized to sign and verify the petition instead of the
324 beneficiary or surviving spouse.

325 (3) If each trustee of a trust that is a beneficiary of
326 the estate of the deceased person is also a petitioner, each
327 qualified beneficiary of the trust as defined in s. 736.0103
328 shall be served by formal notice with the petition for summary
329 administration unless joinder in, or consent to, the petition is
330 obtained from each qualified beneficiary of the trust. The
331 ~~joinder in, or consent to, a petition for summary administration~~
332 ~~is not required of a beneficiary who will receive full~~
333 ~~distributive share under the proposed distribution. Any~~
334 ~~beneficiary not joining or consenting shall receive formal~~
335 ~~notice of the petition.~~

ENROLLED
CS/HB 599

2009 Legislature

336 Section 13. Subsection (8) of section 739.102, Florida
337 Statutes, is amended to read:

338 739.102 Definitions.--As used in this chapter, the term:

339 (8) "Insolvent" means, solely for purposes of this
340 chapter, that the sum of a person's debts is greater than all of
341 the person's assets at fair valuation and that. ~~A person is~~
342 ~~presumed to be "insolvent"~~ if the person is generally not paying
343 his or her debts as they become due. For purposes of this
344 subsection, the term "assets" has the same meaning as that
345 provided in s. 726.102.

346 Section 14. Subsection (2) of section 739.104, Florida
347 Statutes, is amended to read:

348 739.104 Power to disclaim; general requirements; when
349 irrevocable.--

350 (2) With court approval, a fiduciary may disclaim, in
351 whole or part, any interest in or power over property, including
352 a power of appointment, except that a disclaimer of a power
353 arising under s. 739.201(4) does not require court approval.
354 Without court approval, a fiduciary may disclaim, in whole or in
355 part, any interest in or power over property, including a power
356 of appointment, if and to the extent that the instrument
357 creating the fiduciary relationship explicitly grants the
358 fiduciary the right to disclaim. In the absence of a court-
359 appointed guardian, notwithstanding anything in chapter 744 to
360 the contrary, without court approval, a natural guardian under
361 s. 744.301 may disclaim on behalf of a minor child of the
362 natural guardian, in whole or in part, any interest in or power
363 over property, including a power of appointment, which the minor

ENROLLED
CS/HB 599

2009 Legislature

364 child is to receive solely as a result of another disclaimer,
365 but only if the disclaimed interest or power does not pass to or
366 for the benefit of the natural guardian as a result of the
367 disclaimer.

368 Section 15. Subsection (4) is added to section 739.201,
369 Florida Statutes, to read:

370 739.201 Disclaimer of interest in property.--Except for a
371 disclaimer governed by s. 739.202, s. 739.203, or s. 739.204,
372 the following rules apply to a disclaimer of an interest in
373 property:

374 (4) In the case of a disclaimer of property over which the
375 disclaimant has a power, in a fiduciary or nonfiduciary
376 capacity, to direct the beneficial enjoyment of the disclaimed
377 property, unless the disclaimer specifically provides to the
378 contrary with reference to this subsection, the disclaimant
379 shall also be deemed to have disclaimed that power unless the
380 power is limited by an ascertainable standard, as defined in s.
381 736.0103, as in effect when the disclaimer becomes irrevocable.

382 Section 16. Subsection (3) of section 739.207, Florida
383 Statutes, is amended to read:

384 739.207 Disclaimer of power held in fiduciary capacity.--

385 (3) A disclaimer under this section is effective as to
386 another fiduciary if the disclaimer so provides and the
387 fiduciary disclaiming has the authority to bind the estate,
388 trust, or other person for whom the fiduciary is acting, except
389 that a disclaimer of a fiduciary power arising under s.
390 739.201(4) shall bind only the disclaiming fiduciary.

ENROLLED
CS/HB 599

2009 Legislature

391 Section 17. Subsection (2) of section 739.402, Florida
392 Statutes, is amended to read:

393 739.402 When disclaimer is barred or limited.--

394 (2) A disclaimer of an interest in property is barred if
395 any of the following events occur before the disclaimer becomes
396 effective:

397 (a) The disclaimant ~~disclaimer~~ accepts the interest sought
398 to be disclaimed;

399 (b) The disclaimant voluntarily assigns, conveys,
400 encumbers, pledges, or transfers the interest sought to be
401 disclaimed or contracts to do so;

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

404 (d) The disclaimant is insolvent when the disclaimer
405 becomes irrevocable.

406 Section 18. Section 739.501, Florida Statutes, is amended
407 to read:

408 739.501 Tax-qualified disclaimer.--Notwithstanding any
409 ~~other~~ provision of this chapter other than s. 739.402, if, as a
410 result of a disclaimer or transfer, the disclaimed or
411 transferred interest is treated pursuant to the provisions of s.
412 2518 of the Internal Revenue Code of 1986 as never having been
413 transferred to the disclaimant, the disclaimer or transfer is
414 effective as a disclaimer under this chapter.

415 Section 19. Paragraph (b) of subsection (3) of section
416 660.417, Florida Statutes, is amended to read:

ENROLLED
CS/HB 599

2009 Legislature

417 660.417 Investment of fiduciary funds in investment
418 instruments; permissible activity under certain circumstances;
419 limitations.--

420 (3) The fact that such bank or trust company or an
421 affiliate of the bank or trust company owns or controls
422 investment instruments shall not preclude the bank or trust
423 company acting as a fiduciary from investing or reinvesting in
424 such investment instruments, provided such investment
425 instruments:

426 (b) When sold to accounts for which the bank or trust
427 company is acting as a trustee of a trust as defined in s.
428 731.201~~(37)~~:

429 1. Are available for sale to accounts of other customers;
430 and

431 2. If sold to other customers, are not sold to the trust
432 accounts upon terms that are less favorable to the buyer than
433 the terms upon which they are normally sold to the other
434 customers.

435 Section 20. Paragraph (f) of subsection (5) of section
436 736.0802, Florida Statutes, is amended to read:

437 736.0802 Duty of loyalty.--

438 (5)

439 (f)1. The trustee of a trust as defined ~~described~~ in s.
440 731.201~~(37)~~ may request authority to invest in investment
441 instruments described in this subsection other than a qualified
442 investment instrument, by providing to all qualified
443 beneficiaries a written request containing the following:

ENROLLED
CS/HB 599

2009 Legislature

444 a. The name, telephone number, street address, and mailing
445 address of the trustee and of any individuals who may be
446 contacted for further information.

447 b. A statement that the investment or investments cannot
448 be made without the consent of a majority of each class of the
449 qualified beneficiaries.

450 c. A statement that, if a majority of each class of
451 qualified beneficiaries consent, the trustee will have the right
452 to make investments in investment instruments, as defined in s.
453 660.25(6), which are owned or controlled by the trustee or its
454 affiliate, or from which the trustee or its affiliate receives
455 compensation for providing services in a capacity other than as
456 trustee, that such investment instruments may include investment
457 instruments sold primarily to trust accounts, and that the
458 trustee or its affiliate may receive fees in addition to the
459 trustee's compensation for administering the trust.

460 d. A statement that the consent may be withdrawn
461 prospectively at any time by written notice given by a majority
462 of any class of the qualified beneficiaries.

463
464 A statement by the trustee is not delivered if the statement is
465 accompanied by another written communication other than a
466 written communication by the trustee that refers only to the
467 statement.

468 2. For purposes of paragraph (e) and this paragraph:

469 a. "Majority of the qualified beneficiaries" means:

470 (I) If at the time the determination is made there are one
471 or more beneficiaries as described in s. 736.0103(14)(c), at

ENROLLED
CS/HB 599

2009 Legislature

472 least a majority in interest of the beneficiaries described in
473 s. 736.0103(14) (a), at least a majority in interest of the
474 beneficiaries described in s. 736.0103(14) (b), and at least a
475 majority in interest of the beneficiaries described in s.
476 736.0103(14) (c), if the interests of the beneficiaries are
477 reasonably ascertainable; otherwise, a majority in number of
478 each such class; or

479 (II) If there is no beneficiary as described in s.
480 736.0103(14) (c), at least a majority in interest of the
481 beneficiaries described in s. 736.0103(14) (a) and at least a
482 majority in interest of the beneficiaries described in s.
483 736.0103(14) (b), if the interests of the beneficiaries are
484 reasonably ascertainable; otherwise, a majority in number of
485 each such class.

486 b. "Qualified investment instrument" means a mutual fund,
487 common trust fund, or money market fund described in and
488 governed by s. 736.0816(3).

489 c. An irrevocable trust is created upon execution of the
490 trust instrument. If a trust that was revocable when created
491 thereafter becomes irrevocable, the irrevocable trust is created
492 when the right of revocation terminates.

493 Section 21. Subsection (10) of section 895.02, Florida
494 Statutes, is amended to read:

495 895.02 Definitions.--As used in ss. 895.01-895.08, the
496 term:

497 (10) "Trustee" means any of the following:

ENROLLED

CS/HB 599

2009 Legislature

498 (a) Any person acting as trustee pursuant to a trust
499 established under s. 689.07 or s. 689.071 in which the trustee
500 holds legal or record title to real property.

501 (b) Any person who holds legal or record title to real
502 property in which any other person has a beneficial interest.

503 (c) Any successor trustee or trustees to any or all of the
504 foregoing persons.

505

506 However, the term "trustee" does not include any person
507 appointed or acting as a personal representative as defined in
508 s. 731.201~~(27)~~ or appointed or acting as a trustee of any
509 testamentary trust or as a trustee of any indenture of trust
510 under which any bonds have been or are to be issued.

511 Section 22. This act shall take effect July 1, 2009.