

By the Committees on Banking and Insurance; and Judiciary; and
Senator Joyner

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1 A bill to be entitled
2 An act relating to probate procedures; amending s.
3 655.934, F.S.; updating terminology relating to a
4 durable power of attorney; amending s. 655.935, F.S.;
5 imposing additional duties on the lessor of a safe-
6 deposit box relating to the contents of the box when
7 the lessee has died; authorizing the lessor to charge
8 fees for performing such duties; amending s. 731.110,
9 F.S.; revising requirements relating to filing a
10 caveat; providing that a caveat may be filed before or
11 after a person's death; providing for the expiration
12 of the caveat; amending s. 731.201, F.S.; revising the
13 definitions of "formal notice" and "informal notice";
14 amending s. 731.301, F.S.; clarifying provisions
15 relating to notice; amending s. 732.2125, F.S.;
16 clarifying a provision relating to the right of
17 election; amending s. 732.401, F.S.; providing that a
18 decedent's spouse may elect to take an interest in a
19 homestead as a tenant in common rather than a life
20 estate; providing procedures and forms for filing
21 notice of such election; providing that such election
22 is irrevocable; providing for the allocation of
23 expenses relating to the homestead; specifying that
24 the interests of the decedent's descendants in the
25 homestead may not be divested if the spouse's interest
26 is disclaimed; amending s. 732.4015, F.S.; providing
27 that if a spouse's interest in a homestead has been
28 disclaimed, the disclaimed interest passes in
29 accordance with ch. 739, F.S.; creating s. 732.4017,

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30 F.S.; providing for the inter vivos transfer of
31 homestead property; providing limitations; amending s.
32 732.608, F.S.; clarifying provisions relating to which
33 laws apply when determining intestate succession in
34 certain circumstances; creating s. 732.805, F.S.;
35 denying certain rights or benefits to a surviving
36 spouse who procured a marriage by fraud, duress, or
37 undue influence; providing procedures for challenging
38 a surviving spouse; providing for the award of costs
39 and fees; providing for notice to obligors; providing
40 a time limitation on bringing such actions; creating
41 s. 733.1051, F.S.; providing for the temporary
42 construction of the terms of a will that has specified
43 provisions with respect to federal tax; authorizing
44 the court to define respective shares or determine
45 beneficiaries during a specified period if the will
46 contains certain provisions; providing that such
47 provision is remedial in nature and operates
48 retroactively to January 1, 2010; amending s. 733.107,
49 F.S.; providing that, in a will contest, certain
50 affidavits and oaths are prima facie evidence relating
51 to execution and attestation of a will; amending s.
52 733.2123, F.S.; deleting the requirement for attaching
53 a copy of a will to a notice of a petition for
54 administration; amending s. 733.608, F.S.; specifying
55 the manner for serving notice of the personal
56 representative's lien for expenditures and obligations
57 incurred; amending s. 735.203, F.S.; revising
58 provisions relating to providing notice for a petition

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59 for summary administration; amending s. 736.1102,
60 F.S.; clarifying provisions relating to which laws
61 apply when determining intestate succession in certain
62 circumstances; amending s. 744.444, F.S.; conforming
63 provisions to changes made by the act; providing
64 effective dates.

65
66 Be It Enacted by the Legislature of the State of Florida:

67
68 Section 1. Section 655.934, Florida Statutes, is amended to
69 read:

70 655.934 Effect of lessee's death or incapacity.—If a lessor
71 without knowledge of the death or ~~of~~ an order determining the
72 incapacity of the lessee deals with the lessee's agent in
73 accordance with a written power of attorney or a durable ~~family~~
74 power of attorney signed by such lessee, the transaction binds
75 the lessee's estate and the lessee.

76 Section 2. Section 655.935, Florida Statutes, is amended to
77 read:

78 655.935 Search procedure on death of lessee.—If
79 satisfactory proof of the death of the lessee is presented, a
80 lessor shall permit the person named in a court order for that
81 ~~the~~ purpose, or if no order has been served upon the lessor, the
82 spouse, a parent, an adult descendant, or a person named as a
83 personal representative in a copy of a purported will produced
84 by such person, to open and examine the contents of a safe-
85 deposit box leased or coleased by a decedent, or any documents
86 delivered by a decedent for safekeeping, in the presence of an
87 officer of the lessor. ~~and the lessor,~~

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88 (1) If ~~so~~ requested by such person, the lessor shall remove
89 and deliver only shall deliver:

90 (a) ~~(1)~~ Any writing purporting to be a will of the decedent,
91 to the court having probate jurisdiction in the county in which
92 the financial institution is located.

93 (b) ~~(2)~~ Any writing purporting to be a deed to a burial plot
94 or to give burial instructions, to the person making the request
95 for a search.

96 (c) ~~(3)~~ Any document purporting to be an insurance policy on
97 the life of the decedent, to the beneficiary named therein.

98 (2) The officer of the lessor shall make a complete copy of
99 any document removed and delivered pursuant to this section and
100 place that copy, together with a memorandum of delivery
101 identifying the name of the officer, the person to whom the
102 document was delivered, the purported relationship of the person
103 to whom the document was delivered, and the date of delivery, in
104 the safe-deposit box leased or coleased by the decedent.

105 (3) The lessor may charge reasonable fees to cover costs
106 incurred pursuant to this section.

107 (4) No other contents may be removed pursuant to this
108 section. Access granted pursuant to this section is shall not be
109 considered the initial opening of the safe-deposit box pursuant
110 to s. 733.6065 by a personal representative appointed by a court
111 in this state.

112 Section 3. Section 731.110, Florida Statutes, is amended to
113 read:

114 731.110 Caveat; proceedings.—

115 (1) Any interested person, ~~including a creditor~~, who is
116 apprehensive that an estate, either testate or intestate, will

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117 be administered or that a will may be admitted to probate
118 without that ~~the~~ person's knowledge may file a caveat with the
119 court. The caveat of the interested person, other than a
120 creditor, may be filed before or after the death of the person
121 for whom the estate will be, or is being, administered. The
122 caveat of a creditor may be filed only after the person's death.

123 (2) ~~A caveat shall contain the decedent's social security~~
124 ~~number, last known residence address, and date of birth, if they~~
125 ~~are known, as identification, a statement of the interest of the~~
126 ~~eaveator in the estate, the name and specific residence address~~
127 ~~of the caveator, and, If the caveator, other than a state~~
128 ~~agency, is a nonresident and is not represented by an attorney~~
129 admitted to practice in this state who has signed the caveat
130 ~~nonresident of the county, the caveator must designate~~
131 ~~additional name and specific residence address of some person~~
132 ~~residing in the county in which the caveat is filed, or office~~
133 ~~address of a member of The Florida Bar residing in Florida,~~
134 ~~designated as the agent of the caveator, upon whom service may~~
135 ~~be made; however, if the caveator is represented by an attorney~~
136 admitted to practice in this state who has signed the caveat, it
137 is not necessary to designate a resident agent.

138 (3) ~~If~~ When a caveat has been filed by an interested person
139 other than a creditor, the court may ~~shall~~ not admit a will of
140 the decedent to probate or appoint a personal representative
141 until formal notice of the petition for administration has been
142 served on the caveator or the caveator's designated agent ~~by~~
143 ~~formal notice~~ and the caveator has had the opportunity to
144 participate in proceedings on the petition, as provided by the
145 Florida Probate Rules.

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146 (4) A caveat filed before the death of the person for whom
147 the estate will be administered expires 2 years after filing.

148 Section 4. Subsections (18) and (22) of section 731.201,
149 Florida Statutes, are amended to read:

150 731.201 General definitions.—Subject to additional
151 definitions in subsequent chapters that are applicable to
152 specific chapters or parts, and unless the context otherwise
153 requires, in this code, in s. 409.9101, and in chapters 736,
154 738, 739, and 744, the term:

155 (18) "Formal notice" means a form of ~~formal~~ notice that is
156 described in and served by a method of services provided under
157 rule 5.040(a) of the Florida Probate Rules.

158 (22) "Informal notice" or "notice" means a method of
159 service for pleadings or papers as provided ~~informal notice~~
160 under rule 5.040(b) of the Florida Probate Rules.

161 Section 5. Section 731.301, Florida Statutes, is amended to
162 read:

163 731.301 Notice.—

164 (1) If ~~When~~ notice to an interested person of a petition or
165 other proceeding is required, the notice shall be given to the
166 interested person or that person's attorney as provided in the
167 code or the Florida Probate Rules.

168 (2) In a probate proceeding, formal notice is ~~shall be~~
169 sufficient to acquire jurisdiction over the person receiving
170 formal notice to the extent of the person's interest in the
171 estate or in the decedent's protected homestead.

172 (3) Persons given proper notice of a ~~any~~ proceeding are
173 ~~shall be~~ bound by all orders entered in that proceeding.

174 Section 6. Subsection (2) of section 732.2125, Florida

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175 Statutes, is amended to read:

176 732.2125 Right of election; by whom exercisable.—The right
177 of election may be exercised:

178 (2) With approval of the court having jurisdiction of the
179 probate proceeding by an attorney in fact or a guardian of the
180 property of the surviving spouse. Before approving the election,
181 the court shall determine that the election is in ~~as~~ the best
182 interests of the surviving spouse, ~~during the spouse's probable~~
183 lifetime, ~~require~~.

184 Section 7. Section 732.401, Florida Statutes, is amended to
185 read:

186 732.401 Descent of homestead.—

187 (1) If not devised as authorized ~~permitted~~ by law and the
188 ~~Florida~~ constitution, the homestead shall descend in the same
189 manner as other intestate property; but if the decedent is
190 survived by a spouse and one or more descendants, the surviving
191 spouse shall take a life estate in the homestead, with a vested
192 remainder to the descendants in being at the time of the
193 decedent's death per stirpes.

194 (2) In lieu of a life estate under subsection (1), the
195 surviving spouse may elect to take an undivided one-half
196 interest in the homestead as a tenant in common, with the
197 remaining undivided one-half interest vesting in the decedent's
198 descendants in being at the time of the decedent's death, per
199 stirpes.

200 (a) The right of election may be exercised:

201 1. By the surviving spouse; or

202 2. With the approval of a court having jurisdiction of the
203 real property, by an attorney in fact or guardian of the

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204 property of the surviving spouse. Before approving the election,
205 the court shall determine that the election is in the best
206 interests of the surviving spouse during the spouse's probable
207 lifetime.

208 (b) The election must be made within 6 months after the
209 decedent's death and during the surviving spouse's lifetime. The
210 time for making the election may not be extended except as
211 provided in paragraph (c).

212 (c) A petition by an attorney in fact or guardian of the
213 property for approval to make the election tolls the time for
214 making the election until 6 months after the decedent's death or
215 30 days after the rendition of an order authorizing the
216 election, whichever occurs last.

217 (d) Once made, the election is irrevocable.

218 (e) The election shall be made by filing a notice of
219 election containing the legal description of the homestead
220 property for recording in the official record books of the
221 county or counties where the homestead property is located. The
222 notice must be in substantially the following form:

223
224 ELECTION OF SURVIVING SPOUSE
225 TO TAKE A ONE-HALF INTEREST OF
226 DECEDENT'S INTEREST IN HOMESTEAD PROPERTY
227

228 STATE OF.....

229 COUNTY OF.....
230

231 1. The decedent, _____, died on _____ . On
232 the date of the decedent's death, The decedent was married to

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233 _____, who survived the decedent.

234 2. At the time of the decedent's death, the decedent owned
235 an interest in real property that the affiant believes to be
236 homestead property described in s. 4, Article X of the State
237 Constitution, that real property being in _____ County,
238 Florida, and described as: ...(description of homestead
239 property)....

240 3. Affiant elects to take one-half of decedent's interest
241 in the homestead as a tenant in common in lieu of a life estate.

242 4. If affiant is not the surviving spouse, affiant is the
243 surviving spouse's attorney in fact or guardian of the property
244 and an order has been rendered by a court having jurisdiction of
245 the real property authorizing the undersigned to make this
246 election.

247
248
249 ...(Affiant)...

251 Sworn to (or affirmed) and subscribed before me this day of
252 ...(month)...., ...(year)...., by ...(affiant)...

253
254 ...(Signature of Notary Public-State of Florida)...

255
256 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

257
258 Personally Known OR Produced Identification

259 ...(Type of Identification Produced)...

260
261 (3) Unless and until an election is made under subsection

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262 (2), expenses relating to the ownership of the homestead shall
263 be allocated between the surviving spouse, as life tenant, and
264 the decedent's descendants, as remaindermen, in accordance with
265 chapter 738. If an election is made, expenses relating to the
266 ownership of the homestead shall be allocated between the
267 surviving spouse and the descendants as tenants in common in
268 proportion to their respective shares, effective as of the date
269 the election is filed for recording.

270 (4) If the surviving spouse's life estate created in
271 subsection (1) is disclaimed pursuant to chapter 739, the
272 interests of the decedent's descendants may not be divested.

273 (5)~~(2)~~ This section does ~~Subsection (1) shall not apply to~~
274 ~~property that the decedent and the surviving spouse owned in~~
275 tenancy by the entireties or joint tenancy with rights of
276 survivorship as tenants by the entirety.

277 Section 8. Subsection (3) is added to section 732.4015,
278 Florida Statutes, to read:

279 732.4015 Devise of homestead.—

280 (3) If an interest in homestead has been devised to the
281 surviving spouse as authorized by law and the constitution, and
282 the surviving spouse's interest is disclaimed, the disclaimed
283 interest shall pass in accordance with chapter 739.

284 Section 9. Section 732.4017, Florida Statutes, is created
285 to read:

286 732.4017 Inter vivos transfer of homestead property.—

287 (1) If the owner of homestead property transfers an
288 interest in that property, including a transfer in trust, with
289 or without consideration, to one or more persons during the
290 owner's lifetime, the transfer is not a devise for purposes of

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291 s. 731.201(10) or s. 732.4015, and the interest transferred does
292 not descend as provided in s. 732.401 if the transferor fails to
293 retain a power, held in any capacity, acting alone or in
294 conjunction with any other person, to revoke or revest that
295 interest in the transferor.

296 (2) As used in this section, the term "transfer in trust"
297 refers to a trust under which the transferor of the homestead
298 property, alone or in conjunction with another person, does not
299 possess a right of revocation as that term is defined in s.
300 733.707(3)(e). A power possessed by the transferor which is
301 exercisable during the transferor's lifetime to alter the
302 beneficial use and enjoyment of the interest within a class of
303 beneficiaries identified only in the trust instrument is not a
304 right of revocation if the power may not be exercised in favor
305 of the transferor, the transferor's creditors, the transferor's
306 estate, or the creditors of the transferor's estate or exercised
307 to discharge the transferor's legal obligations. This subsection
308 does not create an inference that a power not described in this
309 subsection is a power to revoke or revest an interest in the
310 transferor.

311 (3) The transfer of an interest in homestead property
312 described in subsection (1) may not be treated as a devise of
313 that interest even if:

314 (a) The transferor retains a separate legal or equitable
315 interest in the homestead property, directly or indirectly
316 through a trust or other arrangement such as a term of years,
317 life estate, reversion, possibility of reverter, or fractional
318 fee interest;

319 (b) The interest transferred does not become a possessory

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320 interest until a date certain or upon a specified event, the
321 occurrence or nonoccurrence of which does not constitute a power
322 held by the transferor to revoke or revest the interest in the
323 transferor, including, without limitation, the death of the
324 transferor; or

325 (c) The interest transferred is subject to divestment,
326 expiration, or lapse upon a date certain or upon a specified
327 event, the occurrence or nonoccurrence of which does not
328 constitute a power held by the transferor to revoke or revest
329 the interest in the transferor, including, without limitation,
330 survival of the transferor.

331 (4) It is the intent of the Legislature that this section
332 clarify existing law.

333 Section 10. Section 732.608, Florida Statutes, is amended
334 to read:

335 732.608 Construction of ~~generic~~ terms.—The laws used to
336 determine paternity and ~~Adopted persons and persons born out of~~
337 ~~wedlock are included in class gift terminology and terms of~~
338 ~~relationship, in accordance with rules for determining~~
339 relationships for the purposes of intestate succession apply
340 when determining whether class gift terminology and terms of
341 relationship include adopted persons and persons born out-of-
342 wedlock.

343 Section 11. Section 732.805, Florida Statutes, is created
344 to read:

345 732.805 Spousal rights procured by fraud, duress, or undue
346 influence.—

347 (1) A surviving spouse who is found to have procured a
348 marriage to the decedent by fraud, duress, or undue influence is

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349 not entitled to any of the following rights or benefits that
350 inure solely by virtue of the marriage or the person's status as
351 surviving spouse of the decedent unless the decedent and spouse
352 voluntarily cohabitated as husband and wife with full knowledge
353 of the facts constituting the fraud, duress, or undue influence
354 or both spouses otherwise subsequently ratified the marriage:

355 (a) Any rights or benefits under the Florida Probate Code,
356 including, but not limited to, entitlement to elective share or
357 family allowance; preference in appointment as personal
358 representative; inheritance by intestacy, homestead, or exempt
359 property; or inheritance as a pretermitted spouse.

360 (b) Any rights or benefits under a bond, life insurance
361 policy, or other contractual arrangement if the decedent is the
362 principal obligee or the person upon whose life the policy is
363 issued, unless the surviving spouse is provided for by name,
364 whether or not designated as the spouse, in the bond, life
365 insurance policy, or other contractual arrangement.

366 (c) Any rights or benefits under a will, trust, or power of
367 appointment, unless the surviving spouse is provided for by
368 name, whether or not designated as the spouse, in the will,
369 trust, or power of appointment.

370 (d) Any immunity from the presumption of undue influence
371 that a surviving spouse may have under state law.

372 (2) Any of the rights or benefits listed in paragraphs
373 (1) (a)-(c) which would have passed solely by virtue of the
374 marriage to a surviving spouse who is found to have procured the
375 marriage by fraud, duress, or undue influence shall pass as if
376 the spouse had predeceased the decedent.

377 (3) A challenge to a surviving spouse's rights under this

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378 section may be maintained as a defense, objection, or cause of
379 action by any interested person after the death of the decedent
380 in any proceeding in which the fact of marriage may be directly
381 or indirectly material.

382 (4) The contestant has the burden of establishing, by a
383 preponderance of the evidence, that the marriage was procured by
384 fraud, duress, or undue influence. If ratification of the
385 marriage is raised as a defense, the surviving spouse has the
386 burden of establishing, by a preponderance of the evidence, the
387 subsequent ratification by both spouses.

388 (5) In all actions brought under this section, the court
389 shall award taxable costs as in chancery actions, including
390 attorney's fees. When awarding taxable costs and attorney's
391 fees, the court may direct payment from a party's interest, if
392 any, in the estate, or enter a judgment that may be satisfied
393 from other property of the party, or both.

394 (6) An insurance company, financial institution, or other
395 obligor making payment according to the terms of its policy or
396 obligation is not liable by reason of this section unless,
397 before payment, it received written notice of a claim pursuant
398 to this subsection.

399 (a) The notice must be in writing and must be accomplished
400 in a reasonable manner under the circumstances and likely to
401 result in receipt of the notice. Permissible methods include
402 first-class mail, personal delivery, delivery to the person's
403 last known place of residence or place of business, or a
404 properly directed facsimile or other electronic means.

405 (b) Notice to an insurance company or financial institution
406 must contain the name, address, and taxpayer identification

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407 number, or account or policy number, of the principal obligee or
408 person whose life is insured and be directed to an officer or a
409 manager of the insurance company or financial institution in
410 this state. If the insurance company or financial institution
411 does not have an office in this state, the notice must be
412 directed to the insurance company's or financial institution's
413 principal office.

414 (c) Notice is effective when given, except that notice upon
415 an insurance company or financial institution is not effective
416 until 5 business days after it is given.

417 (7) The rights and remedies granted in this section are in
418 addition to any other rights or remedies a person may have at
419 law or equity.

420 (8) Unless sooner barred by adjudication, estoppel, or a
421 provision of the Florida Probate Code or Florida Probate Rules,
422 an interested person is barred from bringing an action under
423 this section unless the action is commenced within 4 years after
424 the decedent's date of death. A cause of action under this
425 section accrues on the decedent's date of death.

426 Section 12. Effective upon this act becoming a law, section
427 733.1051, Florida Statutes, is created to read:

428 733.1051 Limited judicial construction of will having
429 federal tax provisions.—

430 (1) For the purpose of this section:

431 (a) "Applicable period" means a period beginning January 1,
432 2010, and ending at the end of December 31, 2010, or the day
433 before the date that a law having the effect of repealing or
434 modifying s. 901 of the federal Economic Growth and Tax Relief
435 Reconciliation Act of 2001 becomes effective, whichever occurs

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436 first.

437 (b) A disposition occurs when the testator dies.

438 (2) Upon application of a personal representative or a
439 person who is or may be a beneficiary who is affected by the
440 construction of a will, a court may at any time construe the
441 terms of the will to define the respective shares or determine
442 beneficiaries if a disposition occurs during the applicable
443 period and the will contains a provision that:

444 (a) Includes a formula disposition that refers to the
445 unified credit, estate tax exemption, applicable exemption
446 amount, applicable credit amount, applicable exclusion amount,
447 generation-skipping transfer tax exemption, GST exemption,
448 marital deduction, maximum marital deduction, unlimited marital
449 deduction, or maximum charitable deduction;

450 (b) Measures a share of an estate based on the amount that
451 can pass free of federal estate tax or the amount that can pass
452 free of federal generation-skipping transfer tax;

453 (c) Otherwise makes a disposition referring to a charitable
454 deduction, marital deduction, or another provision of federal
455 estate tax or generation-skipping transfer tax law; or

456 (d) Appears to be intended to reduce or minimize federal
457 estate tax or generation-skipping transfer tax.

458 (3) In construing a will under this section, the court
459 shall consider the terms and purposes of the will, the facts and
460 circumstances surrounding the creation of the will, and the
461 testator's probable intent. In determining probable intent, the
462 court may consider evidence relevant to the testator's intent
463 even though the evidence contradicts the apparent plain meaning
464 of the will.

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465 (4) This section does not apply to a disposition that is
466 specifically conditioned upon a federal estate or generation-
467 skipping transfer tax not being imposed.

468 (5) Unless otherwise ordered by the court, during the
469 applicable period and without court order, the personal
470 representative administering a will containing one or more
471 provisions described in subsection (2) may:

472 (a) Delay or refrain from making any distribution;

473 (b) Incur and pay fees and costs reasonably necessary to
474 determine his or her duties and obligations, including
475 compliance with existing and reasonably anticipated future
476 federal tax laws; and

477 (c) Establish and maintain reserves for the payment of
478 fees, costs, and federal taxes.

479
480 The personal representative is not liable for actions made in
481 good faith pursuant to this subsection.

482 (6) The provisions of this section are in addition to, and
483 not in derogation of, rights under the common law to construe a
484 will.

485 (7) This section is remedial in nature and intended to
486 provide a new or modified legal remedy. This section shall
487 operate retroactively to January 1, 2010.

488 Section 13. Subsection (1) of section 733.107, Florida
489 Statutes, is amended to read:

490 733.107 Burden of proof in contests; presumption of undue
491 influence.—

492 (1) In all proceedings contesting the validity of a will,
493 the burden shall be upon the proponent of the will to establish

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494 prima facie its formal execution and attestation. A self-proving
495 affidavit executed in accordance with s. 732.503 or an oath of
496 an attesting witness executed as required in s. 733.201(2) is
497 admissible and establishes prima facie the formal execution and
498 attestation of the will. Thereafter, the contestant shall have
499 the burden of establishing the grounds on which the probate of
500 the will is opposed or revocation is sought.

501 Section 14. Section 733.2123, Florida Statutes, is amended
502 to read:

503 733.2123 Adjudication before issuance of letters.—A
504 petitioner may serve formal notice of the petition for
505 administration on interested persons. ~~A copy of the will offered~~
506 ~~for probate shall be attached to the notice. A~~ No person who is
507 served with such formal notice before ~~of the petition for~~
508 ~~administration prior to~~ the issuance of letters or who has
509 waived notice may not challenge the validity of the will,
510 testacy of the decedent, qualifications of the personal
511 representative, venue, or jurisdiction of the court, except in
512 the proceedings before issuance of letters.

513 Section 15. Subsection (4) of section 733.608, Florida
514 Statutes, is amended to read:

515 733.608 General power of the personal representative.—

516 (4) The personal representative's lien shall attach to the
517 property and take priority as of the date and time a notice of
518 that lien is recorded in the official records of the county
519 where that property is located, and the lien may secure
520 expenditures and obligations incurred, including, but not
521 limited to, fees and costs made before or after recording the
522 notice. The notice of lien may be recorded before adjudicating

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523 ~~prior to the adjudication of~~ the amount of the debt. The notice
524 of lien ~~also~~ shall also be filed in the probate proceeding, but
525 failure to do so does ~~shall~~ not affect the validity of the lien.
526 A copy of the notice of lien shall be served in the manner
527 provided for service of ~~by~~ formal notice upon each person
528 appearing to have an interest in the property. The notice of
529 lien must ~~shall~~ state:

530 (a) The name and address of the personal representative and
531 the personal representative's attorney;

532 (b) The legal description of the property;

533 (c) The name of the decedent and also, to the extent known
534 to the personal representative, the name and address of each
535 person appearing to have an interest in the property; and

536 (d) That the personal representative has expended or is
537 obligated to expend funds to preserve, maintain, insure, and
538 protect the property and that the lien stands as security for
539 recovery of those expenditures and obligations incurred,
540 including, but not limited to, fees and costs.

541
542 Substantial compliance with the foregoing provisions renders
543 ~~shall render~~ the notice in comportment with this section.

544 Section 16. Subsections (1) and (3) of section 735.203,
545 Florida Statutes, are amended to read:

546 735.203 Petition for summary administration.—

547 (1) A petition for summary administration may be filed by
548 any beneficiary or person nominated as personal representative
549 in the decedent's will offered for probate. The petition must be
550 signed and verified by the surviving spouse, if any, and any
551 beneficiaries except that the joinder in a petition for summary

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552 administration is not required of a beneficiary who will receive
553 a full distributive share under the proposed distribution.
554 However, formal notice of the petition must be served on a ~~Any~~
555 beneficiary not joining in ~~shall be served by formal notice with~~
556 the petition.

557 (3) If each trustee of a trust that is a beneficiary of the
558 estate of the deceased person is also a petitioner, formal
559 notice of the petition for summary administration shall be
560 served on each qualified beneficiary of the trust as defined in
561 s. 736.0103 ~~shall be served by formal notice with the petition~~
562 ~~for summary administration~~ unless joinder in, or consent to, the
563 petition is obtained from each qualified beneficiary of the
564 trust.

565 Section 17. Section 736.1102, Florida Statutes, is amended
566 to read:

567 736.1102 Construction of ~~generic~~ terms.—The laws used to
568 determine paternity and Adopted persons and persons born out of
569 wedlock are included in class gift terminology and terms of
570 relationship, in accordance with rules for determining
571 relationships for the purposes of intestate succession apply
572 when determining whether class gift terminology and terms of
573 relationship include adopted persons and persons born out of
574 wedlock.

575 Section 18. Subsection (9) of section 744.444, Florida
576 Statutes, is amended to read:

577 744.444 Power of guardian without court approval.—Without
578 obtaining court approval, a plenary guardian of the property, or
579 a limited guardian of the property within the powers granted by
580 the order appointing the guardian or an approved annual or

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581 amended guardianship report, may:

582 (9) Elect ~~whether~~ to dissent from a will under ~~the~~
583 ~~provisions of s. 732.2125(2)~~, seek approval to make an election
584 in accordance with s. 732.401, or assert any other right or
585 choice available to a surviving spouse in the administration of
586 a decedent's estate.

587 Section 19. Except as otherwise expressly provided in this
588 act and except for this section, which shall take effect upon
589 this act becoming a law, this act shall take effect October 1,
590 2010.