

By the Committee on Judiciary; and Senator Hukill

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1 A bill to be entitled
2 An act relating to estates; amending s. 198.13, F.S.;
3 deleting a provision that provides that certain
4 information relating to a state death tax credit or a
5 generation-skipping transfer credit is not applicable
6 to estates of decedents dying after a specific date;
7 amending s. 717.101, F.S.; providing a definition;
8 amending s. 717.112, F.S.; providing an exception to
9 property held by agents and fiduciaries; creating s.
10 717.1125, F.S.; providing that property held by
11 fiduciaries under trust instruments is presumed
12 unclaimed under certain circumstances; amending s.
13 731.110, F.S.; specifying that a certain subsection
14 does not require a caveator to be served with formal
15 notice of its own petition for administration;
16 amending s. 732.703, F.S.; revising language regarding
17 instruments governed by the laws of a different state;
18 creating s. 732.806, F.S.; providing provisions
19 relating to gifts to lawyers and other disqualified
20 persons; amending s. 732.901, F.S.; requiring the
21 custodian of a will to supply the testator's date of
22 death or the last four digits of the testator's social
23 security number upon deposit; providing that an
24 original will submitted with a pleading is considered
25 to be deposited with the clerk; requiring the clerk to
26 retain and preserve the original will in its original
27 form for a certain period of time; amending s.
28 736.0103, F.S.; providing definitions; amending s.
29 736.0202, F.S.; providing for in rem jurisdiction and

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30 personal jurisdiction over a trustee, beneficiary, or
31 other person; deleting a provision referring to other
32 methods of obtaining jurisdiction; creating s.
33 736.02025, F.S.; providing provisions for methods of
34 service of process in actions involving trusts and
35 trust beneficiaries; repealing s. 736.0205, F.S.,
36 relating to trust proceedings and the dismissal of
37 matters relating to foreign trusts; repealing s.
38 736.0807(4), F.S., relating to delegation of powers by
39 a trustee; amending s. 736.0813, F.S.; clarifying the
40 duties of a trustee to provide a trust accounting;
41 amending ss. 607.0802, 731.201, 733.212, 736.0802,
42 736.08125, and 738.104, F.S.; conforming cross-
43 references; providing an effective date.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Subsection (4) of section 198.13, Florida
48 Statutes, is amended to read:

49 198.13 Tax return to be made in certain cases; certificate
50 of nonliability.-

51 (4) Notwithstanding any other provisions of this section
52 and applicable to the estate of a decedent who dies after
53 December 31, 2004, if, upon the death of the decedent, a state
54 death tax credit or a generation-skipping transfer credit is not
55 allowable pursuant to the Internal Revenue Code of 1986, as
56 amended:

57 (a) The personal representative of the estate is not
58 required to file a return under subsection (1) in connection

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59 with the estate.

60 (b) The person who would otherwise be required to file a
61 return reporting a generation-skipping transfer under subsection
62 (3) is not required to file such a return in connection with the
63 estate.

64
65 ~~The provisions of this subsection do not apply to estates of~~
66 ~~decedents dying after December 31, 2012.~~

67 Section 2. Present subsections (22) and (23) of section
68 717.101, Florida Statutes, are redesignated as subsections (23)
69 and (24), respectively, and a new subsection (22) is added to
70 that section, to read:

71 717.101 Definitions.—As used in this chapter, unless the
72 context otherwise requires:

73 (22) "Trust instrument" means a trust instrument as defined
74 in s. 736.0103.

75 Section 3. Subsection (1) of section 717.112, Florida
76 Statutes, is amended to read:

77 717.112 Property held by agents and fiduciaries.—

78 (1) Except as provided in ss. 717.1125 and 733.816, all
79 intangible property and any income or increment thereon held in
80 a fiduciary capacity for the benefit of another person is
81 presumed unclaimed unless the owner has within 5 years after it
82 has become payable or distributable increased or decreased the
83 principal, accepted payment of principal or income, communicated
84 concerning the property, or otherwise indicated an interest as
85 evidenced by a memorandum or other record on file with the
86 fiduciary.

87 Section 4. Section 717.1125, Florida Statutes, is created

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88 to read:

89 717.1125 Property held by fiduciaries under trust
90 instruments.—All tangible and intangible property and any income
91 or increment thereon held in a fiduciary capacity for the
92 benefit of another person under a trust instrument is presumed
93 unclaimed unless the owner has, within 2 years after it has
94 become payable or distributable, increased or decreased the
95 principal, accepted payment of principal or income, communicated
96 concerning the property, or otherwise indicated an interest as
97 evidenced by a memorandum or other record on file with the
98 fiduciary.

99 Section 5. Subsection (3) of section 731.110, Florida
100 Statutes, is amended to read:

101 731.110 Caveat; proceedings.—

102 (3) If a caveat has been filed by an interested person
103 other than a creditor, the court may not admit a will of the
104 decedent to probate or appoint a personal representative until
105 formal notice of the petition for administration has been served
106 on the caveator or the caveator's designated agent and the
107 caveator has had the opportunity to participate in proceedings
108 on the petition, as provided by the Florida Probate Rules. This
109 subsection does not require a caveator to be served with formal
110 notice of its own petition for administration.

111 Section 6. Subsection (4) of section 732.703, Florida
112 Statutes, is amended to read:

113 732.703 Effect of divorce, dissolution, or invalidity of
114 marriage on disposition of certain assets at death.—

115 (4) Subsection (2) does not apply:

116 (a) To the extent that controlling federal law provides

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117 otherwise;

118 (b) If the governing instrument is signed by the decedent,
119 or on behalf of the decedent, after the order of dissolution or
120 order declaring the marriage invalid and such governing
121 instrument expressly provides that benefits will be payable to
122 the decedent's former spouse;

123 (c) To the extent a will or trust governs the disposition
124 of the assets and s. 732.507(2) or s. 736.1105 ~~736.1005~~ applies;

125 (d) If the order of dissolution or order declaring the
126 marriage invalid requires that the decedent acquire or maintain
127 the asset for the benefit of a former spouse or children of the
128 marriage, payable upon the death of the decedent either outright
129 or in trust, only if other assets of the decedent fulfilling
130 such a requirement for the benefit of the former spouse or
131 children of the marriage do not exist upon the death of the
132 decedent;

133 (e) If, under the terms of the order of dissolution or
134 order declaring the marriage invalid, the decedent could not
135 have unilaterally terminated or modified the ownership of the
136 asset, or its disposition upon the death of the decedent;

137 (f) If the designation of the decedent's former spouse as a
138 beneficiary is irrevocable under applicable law;

139 (g) If the governing instrument ~~directing the disposition~~
140 ~~of the asset at death~~ is governed by the laws of a state other
141 than this state;

142 (h) To an asset held in two or more names as to which the
143 death of one coowner vests ownership of the asset in the
144 surviving coowner or coowners;

145 (i) If the decedent remarries the person whose interest

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146 would otherwise have been revoked under this section and the
147 decedent and that person are married to one another at the time
148 of the decedent's death; or

149 (j) To state-administered retirement plans under chapter
150 121.

151 Section 7. Section 732.806, Florida Statutes, is created to
152 read:

153 732.806 Gifts to lawyers and other disqualified persons.-

154 (1) Any part of a written instrument which makes a gift to
155 a lawyer or a person related to the lawyer is void if the lawyer
156 prepared or supervised the execution of the written instrument,
157 or solicited the gift, unless the lawyer or other recipient of
158 the gift is related to the person making the gift.

159 (2) This section is not applicable to a provision in a
160 written instrument appointing a lawyer, or a person related to
161 the lawyer, as a fiduciary.

162 (3) A provision in a written instrument purporting to waive
163 the application of this section is unenforceable.

164 (4) If property distributed in kind, or a security interest
165 in that property, is acquired by a purchaser or lender for value
166 from a person who has received a gift in violation of this
167 section, the purchaser or lender takes title free of any claims
168 arising under this section and incurs no personal liability by
169 reason of this section, whether or not the gift is void under
170 this section.

171 (5) In all actions brought under this section, the court
172 must award taxable costs as in chancery actions, including
173 attorney fees. When awarding taxable costs and attorney fees
174 under this section, the court may direct payment from a party's

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175 interest in the estate or trust, or enter a judgment that may be
176 satisfied from other property of the party, or both. Attorney
177 fees and costs may not be awarded against a party who, in good
178 faith, initiates an action under this section to declare a gift
179 void.

180 (6) If a part of a written instrument is invalid by reason
181 of this section, the invalid part is severable and may not
182 affect any other part of the written instrument which can be
183 given effect, including a term that makes an alternate or
184 substitute gift. In the case of a power of appointment, this
185 section does not affect the power to appoint in favor of persons
186 other than the lawyer or a person related to the lawyer.

187 (7) For purposes of this section:

188 (a) A lawyer is deemed to have prepared, or supervised the
189 execution of, a written instrument if the preparation, or
190 supervision of the execution, of the written instrument was
191 performed by an employee or lawyer employed by the same firm as
192 the lawyer.

193 (b) A person is "related" to an individual if, at the time
194 the lawyer prepared or supervised the execution of the written
195 instrument or solicited the gift, the person is:

- 196 1. A spouse of the individual;
- 197 2. A lineal ascendant or descendant of the individual;
- 198 3. A sibling of the individual;
- 199 4. A relative of the individual or of the individual's
200 spouse with whom the lawyer maintains a close, familial
201 relationship;
- 202 5. A spouse of a person described in subparagraph 2.,
203 subparagraph 3., or subparagraph 4.; or

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204 6. A person who cohabitates with the individual.

205 (c) The term "written instrument" includes, but is not
206 limited to, a will, a trust, a deed, a document exercising a
207 power of appointment, or a beneficiary designation under a life
208 insurance contract or any other contractual arrangement that
209 creates an ownership interest or permits the naming of a
210 beneficiary.

211 (d) The term "gift" includes an inter vivos gift, a
212 testamentary transfer of real or personal property or any
213 interest therein, and the power to make such a transfer
214 regardless of whether the gift is outright or in trust;
215 regardless of when the transfer is to take effect; and
216 regardless of whether the power is held in a fiduciary or
217 nonfiduciary capacity.

218 (8) The rights and remedies granted in this section are in
219 addition to any other rights or remedies a person may have at
220 law or in equity.

221 Section 8. Section 732.901, Florida Statutes, is amended to
222 read:

223 732.901 Production of wills.—

224 (1) The custodian of a will must deposit the will with the
225 clerk of the court having venue of the estate of the decedent
226 within 10 days after receiving information that the testator is
227 dead. The custodian must supply the testator's date of death or
228 the last four digits of the testator's social security number to
229 the clerk upon deposit.

230 (2) Upon petition and notice, the custodian of any will may
231 be compelled to produce and deposit the will ~~as provided in~~
232 ~~subsection (1)~~. All costs, damages, and a reasonable attorney's

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233 fee shall be adjudged to petitioner against the delinquent
234 custodian if the court finds that the custodian had no just or
235 reasonable cause for failing to deposit the will.

236 (3) An original will submitted to the clerk with a petition
237 or other pleading is deemed to have been deposited with the
238 clerk.

239 (4) Upon receipt, the clerk shall retain and preserve the
240 original will in its original form for at least 20 years. If the
241 probate of a will is initiated, the original will may be
242 maintained by the clerk with the other pleadings during the
243 pendency of the proceedings, but the will must at all times be
244 retained in its original form for the remainder of the 20-year
245 period whether or not the will is admitted to probate or the
246 proceedings are terminated. Transforming and storing a will on
247 film, microfilm, magnetic, electronic, optical, or other
248 substitute media or recording a will onto an electronic record-
249 keeping system, whether or not in accordance with the standards
250 adopted by the Supreme Court of Florida, or permanently
251 recording a will does not eliminate the requirement to preserve
252 the original will.

253 (5) For purposes of this section, the term "will" includes
254 a separate writing as described in s. 732.515.

255 Section 9. Present subsections (6) through (11) of section
256 736.0103, Florida Statutes, are redesignated as subsections (7)
257 through (12), respectively, present subsections (12) through
258 (21) of that section are redesignated as subsections (14)
259 through (23), respectively, and new subsections (6) and (13) are
260 added to that section, to read:

261 736.0103 Definitions.—Unless the context otherwise

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262 requires, in this code:

263 (6) "Distributee" means a beneficiary who is currently
264 entitled to receive a distribution.

265 (13) "Permissible distributee" means a beneficiary who is
266 currently eligible to receive a distribution.

267 Section 10. Section 736.0202, Florida Statutes, is amended
268 to read:

269 736.0202 Jurisdiction over trustee and beneficiary.—

270 (1) IN REM JURISDICTION.—Any beneficiary ~~By accepting the~~
271 ~~trusteeship~~ of a trust having its principal place of
272 administration in this state is subject ~~or by moving the~~
273 ~~principal place of administration to this state, the trustee~~
274 ~~submits personally~~ to the jurisdiction of the courts of this
275 state to the extent of the beneficiary's interest in regarding
276 ~~any matter involving~~ the trust.

277 (2) PERSONAL JURISDICTION.—

278 (a) Any trustee, trust beneficiary, or other person,
279 whether or not a citizen or resident of this state, who
280 personally or through an agent does any of the following acts
281 related to a trust, submits to the jurisdiction of the courts of
282 this state involving that trust: ~~With respect to their interests~~
283 ~~in the trust, the beneficiaries of a trust having its principal~~
284 ~~place of administration in this state are subject to the~~
285 ~~jurisdiction of the courts of this state regarding any matter~~
286 ~~involving the trust. By accepting a distribution from such a~~
287 ~~trust, the recipient submits personally to the jurisdiction of~~
288 ~~the courts of this state regarding any matter involving the~~
289 ~~distribution.~~

290 1. Accepts trusteeship of a trust having its principal

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291 place of administration in this state at the time of acceptance.

292 2. Moves the principal place of administration of a trust
293 to this state.

294 3. Serves as trustee of a trust created by a settlor who
295 was a resident of this state at the time of creation of the
296 trust or serves as trustee of a trust having its principal place
297 of administration in this state.

298 4. Accepts or exercises a delegation of powers or duties
299 from the trustee of a trust having its principal place of
300 administration in this state.

301 5. Commits a breach of trust in this state, or commits a
302 breach of trust with respect to a trust having its principal
303 place of administration in this state at the time of the breach.

304 6. Accepts compensation from a trust having its principal
305 place of administration in this state.

306 7. Performs any act or service for a trust having its
307 principal place of administration in this state.

308 8. Accepts a distribution from a trust having its principal
309 place of administration in this state with respect to any matter
310 involving the distribution.

311 (b) A court of this state may exercise personal
312 jurisdiction over a trustee, trust beneficiary, or other person,
313 whether found within or outside the state, to the maximum extent
314 permitted by the State Constitution or the Federal Constitution.

315 ~~(3) This section does not preclude other methods of~~
316 ~~obtaining jurisdiction over a trustee, beneficiary, or other~~
317 ~~person receiving property from the trust.~~

318 Section 11. Section 736.02025, Florida Statutes, is created
319 to read:

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320 736.02025 Service of process.-

321 (1) Except as otherwise provided in this section, service
322 of process upon any person may be made as provided in chapter
323 48.

324 (2) Where only in rem or quasi in rem relief is sought
325 against a person in a matter involving a trust, service of
326 process on that person may be made by sending a copy of the
327 summons and complaint by any commercial delivery service
328 requiring a signed receipt or by any form of mail requiring a
329 signed receipt. Service under this subsection shall be complete
330 upon signing of a receipt by the addressee or by any person
331 authorized to receive service of a summons on behalf of the
332 addressee as provided in chapter 48. Proof of service shall be
333 by verified statement of the person serving the summons, to
334 which must be attached the signed receipt or other evidence
335 satisfactory to the court that delivery was made to the
336 addressee or other authorized person.

337 (3) Under any of the following circumstances, service of
338 original process pursuant to subsection (2) may be made by
339 first-class mail:

340 (a) If registered or certified mail service to the
341 addressee is unavailable and if delivery by commercial delivery
342 service is also unavailable.

343 (b) If delivery is attempted and is refused by the
344 addressee.

345 (c) If delivery by mail requiring a signed receipt is
346 unclaimed after notice to the addressee by the delivering
347 entity.

348 (4) If service of process is obtained under subsection (3),

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349 proof of service shall be made by verified statement of the
350 person serving the summons. The verified statement must state
351 the basis for service by first-class mail, the date of mailing,
352 and the address to which the mail was sent.

353 Section 12. Section 736.0205, Florida Statutes, is
354 repealed.

355 Section 13. Subsection (4) of section 736.0807, Florida
356 Statutes, is repealed.

357 Section 14. Paragraph (d) of subsection (1) of section
358 736.0813, Florida Statutes, is amended to read:

359 736.0813 Duty to inform and account.—The trustee shall keep
360 the qualified beneficiaries of the trust reasonably informed of
361 the trust and its administration.

362 (1) The trustee's duty to inform and account includes, but
363 is not limited to, the following:

364 (d) A trustee of an irrevocable trust shall provide a trust
365 accounting, as set forth in s. 736.08135, from the date of the
366 last accounting or, if none, from the date on which the trustee
367 became accountable, to each qualified beneficiary at least
368 annually and on termination of the trust or on change of the
369 trustee.

370

371 Paragraphs (a) and (b) do not apply to an irrevocable trust
372 created before the effective date of this code, or to a
373 revocable trust that becomes irrevocable before the effective
374 date of this code. Paragraph (a) does not apply to a trustee who
375 accepts a trusteeship before the effective date of this code.

376 Section 15. Subsection (2) of section 607.0802, Florida
377 Statutes, is amended to read:

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378 607.0802 Qualifications of directors.—

379 (2) In the event that the eligibility to serve as a member
380 of the board of directors of a condominium association,
381 cooperative association, homeowners' association, or mobile home
382 owners' association is restricted to membership in such
383 association and membership is appurtenant to ownership of a
384 unit, parcel, or mobile home, a grantor of a trust described in
385 s. 733.707(3), or a qualified beneficiary as defined in s.
386 736.0103~~(14)~~ of a trust which owns a unit, parcel, or mobile
387 home shall be deemed a member of the association and eligible to
388 serve as a director of the condominium association, cooperative
389 association, homeowners' association, or mobile home owners'
390 association, provided that said beneficiary occupies the unit,
391 parcel, or mobile home.

392 Section 16. Subsections (2) and (11) of section 731.201,
393 Florida Statutes, are amended to read:

394 731.201 General definitions.—Subject to additional
395 definitions in subsequent chapters that are applicable to
396 specific chapters or parts, and unless the context otherwise
397 requires, in this code, in s. 409.9101, and in chapters 736,
398 738, 739, and 744, the term:

399 (2) "Beneficiary" means heir at law in an intestate estate
400 and devisee in a testate estate. The term "beneficiary" does not
401 apply to an heir at law or a devisee after that person's
402 interest in the estate has been satisfied. In the case of a
403 devise to an existing trust or trustee, or to a trust or trustee
404 described by will, the trustee is a beneficiary of the estate.
405 Except as otherwise provided in this subsection, the beneficiary
406 of the trust is not a beneficiary of the estate of which that

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407 trust or the trustee of that trust is a beneficiary. However, if
408 each trustee is also a personal representative of the estate,
409 each qualified beneficiary of the trust as defined in s.
410 736.0103~~(14)~~ shall be regarded as a beneficiary of the estate.

411 (11) "Devisee" means a person designated in a will or trust
412 to receive a devise. Except as otherwise provided in this
413 subsection, in the case of a devise to an existing trust or
414 trustee, or to a trust or trustee of a trust described by will,
415 the trust or trustee, rather than the beneficiaries of the
416 trust, is the devisee. However, if each trustee is also a
417 personal representative of the estate, each qualified
418 beneficiary of the trust as defined in s. 736.0103~~(14)~~ shall be
419 regarded as a devisee.

420 Section 17. Subsection (1) of section 733.212, Florida
421 Statutes, is amended to read:

422 733.212 Notice of administration; filing of objections.—

423 (1) The personal representative shall promptly serve a copy
424 of the notice of administration on the following persons who are
425 known to the personal representative:

426 (a) The decedent's surviving spouse;

427 (b) Beneficiaries;

428 (c) The trustee of any trust described in s. 733.707(3) and
429 each qualified beneficiary of the trust as defined in s.

430 736.0103~~(14)~~, if each trustee is also a personal representative
431 of the estate; and

432 (d) Persons who may be entitled to exempt property

433

434 in the manner provided for service of formal notice, unless
435 served under s. 733.2123. The personal representative may

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436 similarly serve a copy of the notice on any devisees under a
437 known prior will or heirs or others who claim or may claim an
438 interest in the estate.

439 Section 18. Paragraph (f) of subsection (5) of section
440 736.0802, Florida Statutes, is amended to read:

441 736.0802 Duty of loyalty.—

442 (5)

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

448 a. The name, telephone number, street address, and mailing
449 address of the trustee and of any individuals who may be
450 contacted for further information.

451 b. A statement that the investment or investments cannot be
452 made without the consent of a majority of each class of the
453 qualified beneficiaries.

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

464 d. A statement that the consent may be withdrawn

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465 prospectively at any time by written notice given by a majority
466 of any class of the qualified beneficiaries.

467

468 A statement by the trustee is not delivered if the statement is
469 accompanied by another written communication other than a
470 written communication by the trustee that refers only to the
471 statement.

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

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

474 (I) If at the time the determination is made there are one
475 or more beneficiaries as described in s. 736.0103(16)(c)
476 ~~736.0103(14)(e)~~, at least a majority in interest of the
477 beneficiaries described in s. 736.0103(16)(a) ~~736.0103(14)(a)~~,
478 at least a majority in interest of the beneficiaries described
479 in s. 736.0103(16)(b) ~~736.0103(14)(b)~~, and at least a majority
480 in interest of the beneficiaries described in s. 736.0103(16)(c)
481 ~~736.0103(14)(e)~~, if the interests of the beneficiaries are
482 reasonably ascertainable; otherwise, a majority in number of
483 each such class; or

484 (II) If there is no beneficiary as described in s.
485 736.0103(16)(c) ~~736.0103(14)(e)~~, at least a majority in interest
486 of the beneficiaries described in s. 736.0103(16)(a)
487 ~~736.0103(14)(a)~~ and at least a majority in interest of the
488 beneficiaries described in s. 736.0103(16)(b) ~~736.0103(14)(b)~~,
489 if the interests of the beneficiaries are reasonably
490 ascertainable; otherwise, a majority in number of each such
491 class.

492 b. "Qualified investment instrument" means a mutual fund,
493 common trust fund, or money market fund described in and

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494 governed by s. 736.0816(3).

495 c. An irrevocable trust is created upon execution of the
496 trust instrument. If a trust that was revocable when created
497 thereafter becomes irrevocable, the irrevocable trust is created
498 when the right of revocation terminates.

499 Section 19. Paragraph (a) of subsection (2) of section
500 736.08125, Florida Statutes, is amended to read:

501 736.08125 Protection of successor trustees.—

502 (2) For the purposes of this section, the term:

503 (a) "Eligible beneficiaries" means:

504 1. At the time the determination is made, if there are one
505 or more beneficiaries as described in s. 736.0103(16)(c)
506 ~~736.0103(14)(e)~~, the beneficiaries described in s.

507 736.0103(16)(a) ~~736.0103(14)(a)~~ and (c); or

508 2. If there is no beneficiary as described in s.

509 736.0103(16)(c) ~~736.0103(14)(e)~~, the beneficiaries described in
510 s. 736.0103(16)(a) ~~736.0103(14)(a)~~ and (b).

511 Section 20. Paragraph (d) of subsection (9) of section
512 738.104, Florida Statutes, is amended to read:

513 738.104 Trustee's power to adjust.—

514 (9)

515 (d) For purposes of subsection (8) and this subsection, the
516 term:

517 1. "Eligible beneficiaries" means:

518 a. If at the time the determination is made there are one
519 or more beneficiaries described in s. 736.0103(16)(c)
520 ~~736.0103(14)(e)~~, the beneficiaries described in s.

521 736.0103(16)(a) ~~736.0103(14)(a)~~ and (c); or

522 b. If there is no beneficiary described in s.

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523 736.0103(16)(c) ~~736.0103(14)(e)~~, the beneficiaries described in
524 s. 736.0103(16)(a) ~~736.0103(14)(a)~~ and (b).

525 2. "Super majority of the eligible beneficiaries" means:

526 a. If at the time the determination is made there are one
527 or more beneficiaries described in s. 736.0103(16)(c)
528 ~~736.0103(14)(e)~~, at least two-thirds in interest of the
529 beneficiaries described in s. 736.0103(16)(a) ~~736.0103(14)(a)~~ or
530 two-thirds in interest of the beneficiaries described in s.
531 736.0103(16)(c) ~~736.0103(14)(e)~~, if the interests of the
532 beneficiaries are reasonably ascertainable; otherwise, it means
533 two-thirds in number of either such class; or

534 b. If there is no beneficiary described in s.
535 736.0103(16)(c) ~~736.0103(14)(e)~~, at least two-thirds in interest
536 of the beneficiaries described in s. 736.0103(16)(a)
537 ~~736.0103(14)(a)~~ or two-thirds in interest of the beneficiaries
538 described in s. 736.0103(16)(b) ~~736.0103(14)(b)~~, if the
539 interests of the beneficiaries are reasonably ascertainable,
540 otherwise, two-thirds in number of either such class.

541 Section 21. This act shall take effect October 1, 2013.