

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 specified date;
7 providing for retroactive effect and application;
8 amending s. 717.101, F.S.; providing a definition;
9 amending s. 717.112, F.S.; providing an exception to
10 property held by agents and fiduciaries; creating s.
11 717.1125, F.S.; providing that intangible property
12 held by fiduciaries under trust instruments is
13 presumed unclaimed under certain circumstances;
14 amending s. 731.110, F.S.; specifying that a certain
15 subsection does not require a caveator to be served
16 with formal notice of its own petition for
17 administration; amending s. 732.703, F.S.; revising
18 language regarding instruments governed by the laws of
19 a different state; creating s. 732.806, F.S.;
20 providing provisions relating to gifts to lawyers and
21 other disqualified persons; amending s. 732.901, F.S.;
22 requiring the custodian of a will to supply the
23 testator's date of death or the last four digits of
24 the testator's social security number upon deposit;
25 providing that an original will submitted with a
26 pleading is considered to be deposited with the clerk;
27 requiring the clerk to retain and preserve the
28 original will in its original form for a certain

29 | period of time; amending s. 736.0103, F.S.; providing
 30 | definitions; amending s. 736.0202, F.S.; providing for
 31 | in rem jurisdiction and personal jurisdiction over a
 32 | trustee, beneficiary, or other person; deleting a
 33 | provision referring to other methods of obtaining
 34 | jurisdiction; creating s. 736.02025, F.S.; providing
 35 | provisions for methods of service of process in
 36 | actions involving trusts and trust beneficiaries;
 37 | repealing s. 736.0205, F.S., relating to trust
 38 | proceedings and the dismissal of matters relating to
 39 | foreign trusts; repealing s. 736.0807(4), F.S.,
 40 | relating to delegation of powers by a trustee;
 41 | amending s. 736.0813, F.S.; clarifying the duties of a
 42 | trustee to provide a trust accounting; amending ss.
 43 | 607.0802, 731.201, 733.212, 736.0802, 736.08125, and
 44 | 738.104, F.S.; conforming cross-references; providing
 45 | effective dates.

46 |

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

48 |

49 | Section 1. Effective upon this act becoming a law and
 50 | operating retroactively to January 1, 2013, subsection (4) of
 51 | section 198.13, Florida Statutes, is amended to read:

52 | 198.13 Tax return to be made in certain cases; certificate
 53 | of nonliability.—

54 | (4) Notwithstanding any other provisions of this section
 55 | and applicable to the estate of a decedent who dies after
 56 | December 31, 2004, if, upon the death of the decedent, a state

57 death tax credit or a generation-skipping transfer credit is not
 58 allowable pursuant to the Internal Revenue Code of 1986, as
 59 amended:

60 (a) The personal representative of the estate is not
 61 required to file a return under subsection (1) in connection
 62 with the estate.

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

67
 68 ~~The provisions of this subsection do not apply to estates of~~
 69 ~~decedents dying after December 31, 2012.~~

70 Section 2. Present subsections (22) and (23) of section
 71 717.101, Florida Statutes, are redesignated as subsections (23)
 72 and (24), respectively, and a new subsection (22) is added to
 73 that section, to read:

74 717.101 Definitions.—As used in this chapter, unless the
 75 context otherwise requires:

76 (22) "Trust instrument" means a trust instrument as
 77 defined in s. 736.0103.

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

80 717.112 Property held by agents and fiduciaries.—

81 (1) Except as provided in ss. 717.1125 and 733.816, all
 82 intangible property and any income or increment thereon held in
 83 a fiduciary capacity for the benefit of another person is
 84 presumed unclaimed unless the owner has within 5 years after it

85 | has become payable or distributable increased or decreased the
 86 | principal, accepted payment of principal or income, communicated
 87 | concerning the property, or otherwise indicated an interest as
 88 | evidenced by a memorandum or other record on file with the
 89 | fiduciary.

90 | Section 4. Section 717.1125, Florida Statutes, is created
 91 | to read:

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

101 | Section 5. Subsection (3) of section 731.110, Florida
 102 | Statutes, is amended to read:

103 | 731.110 Caveat; proceedings.—

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

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

115 732.703 Effect of divorce, dissolution, or invalidity of
 116 marriage on disposition of certain assets at death.—

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

118 (a) To the extent that controlling federal law provides
 119 otherwise;

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

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

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

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

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

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

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

147 (i) If the decedent remarries the person whose interest
148 would otherwise have been revoked under this section and the
149 decedent and that person are married to one another at the time
150 of the decedent's death; or

151 (j) To state-administered retirement plans under chapter
152 121.

153 Section 7. Section 732.806, Florida Statutes, is created
154 to read:

155 732.806 Gifts to lawyers and other disqualified persons.-

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

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

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

166 (4) If property distributed in kind, or a security
167 interest in that property, is acquired by a purchaser or lender
168 for value from a person who has received a gift in violation of

169 this section, the purchaser or lender takes title free of any
170 claims arising under this section and incurs no personal
171 liability by reason of this section, whether or not the gift is
172 void under this section.

173 (5) In all actions brought under this section, the court
174 must award taxable costs as in chancery actions, including
175 attorney fees. When awarding taxable costs and attorney fees
176 under this section, the court may direct payment from a party's
177 interest in the estate or trust, or enter a judgment that may be
178 satisfied from other property of the party, or both. Attorney
179 fees and costs may not be awarded against a party who, in good
180 faith, initiates an action under this section to declare a gift
181 void.

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

189 (7) For purposes of this section:

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

195 (b) A person is "related" to an individual if, at the time
196 the lawyer prepared or supervised the execution of the written

197 | instrument or solicited the gift, the person is:

198 | 1. A spouse of the individual;

199 | 2. A lineal ascendant or descendant of the individual;

200 | 3. A sibling of the individual;

201 | 4. A relative of the individual or of the individual's

202 | spouse with whom the lawyer maintains a close, familial

203 | relationship;

204 | 5. A spouse of a person described in subparagraph 2.,

205 | subparagraph 3., or subparagraph 4.; or

206 | 6. A person who cohabitates with the individual.

207 | (c) The term "written instrument" includes, but is not

208 | limited to, a will, a trust, a deed, a document exercising a

209 | power of appointment, or a beneficiary designation under a life

210 | insurance contract or any other contractual arrangement that

211 | creates an ownership interest or permits the naming of a

212 | beneficiary.

213 | (d) The term "gift" includes an inter vivos gift, a

214 | testamentary transfer of real or personal property or any

215 | interest therein, and the power to make such a transfer

216 | regardless of whether the gift is outright or in trust;

217 | regardless of when the transfer is to take effect; and

218 | regardless of whether the power is held in a fiduciary or

219 | nonfiduciary capacity.

220 | (8) The rights and remedies granted in this section are in

221 | addition to any other rights or remedies a person may have at

222 | law or in equity.

223 | Section 8. Section 732.901, Florida Statutes, is amended

224 | to read:

225 732.901 Production of wills.—

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

232 (2) Upon petition and notice, the custodian of any will
233 may be compelled to produce and deposit the will ~~as provided in~~
234 ~~subsection (1)~~. All costs, damages, and a reasonable attorney's
235 fee shall be adjudged to petitioner against the delinquent
236 custodian if the court finds that the custodian had no just or
237 reasonable cause for failing to deposit the will.

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

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

253 recording a will does not eliminate the requirement to preserve
 254 the original will.

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

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

263 736.0103 Definitions.—Unless the context otherwise
 264 requires, in this code:

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

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

269 Section 10. Section 736.0202, Florida Statutes, is amended
 270 to read:

271 736.0202 Jurisdiction over trustee and beneficiary.—

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

279 (2) PERSONAL JURISDICTION.—

280 (a) Any trustee, trust beneficiary, or other person,

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

292 1. Accepts trusteeship of a trust having its principal
293 place of administration in this state at the time of acceptance.

294 2. Moves the principal place of administration of a trust
295 to this state.

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

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

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

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

308 7. Performs any act or service for a trust having its

309 principal place of administration in this state.

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

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

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

320 Section 11. Section 736.02025, Florida Statutes, is
321 created to read:

322 736.02025 Service of process.-

323 (1) Except as otherwise provided in this section, service
324 of process upon any person may be made as provided in chapter
325 48.

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

337 satisfactory to the court that delivery was made to the
338 addressee or other authorized person.

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

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

345 (b) If delivery is attempted and is refused by the
346 addressee.

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

350 (4) If service of process is obtained under subsection
351 (3), proof of service shall be made by verified statement of the
352 person serving the summons. The verified statement must state
353 the basis for service by first-class mail, the date of mailing,
354 and the address to which the mail was sent.

355 Section 12. Section 736.0205, Florida Statutes, is
356 repealed.

357 Section 13. Subsection (4) of section 736.0807, Florida
358 Statutes, is repealed.

359 Section 14. Paragraph (d) of subsection (1) of section
360 736.0813, Florida Statutes, is amended to read:

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

364 (1) The trustee's duty to inform and account includes, but

365 is not limited to, the following:

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

372

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

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

380 607.0802 Qualifications of directors.—

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

393 parcel, or mobile home.

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

396 731.201 General definitions.—Subject to additional
397 definitions in subsequent chapters that are applicable to
398 specific chapters or parts, and unless the context otherwise
399 requires, in this code, in s. 409.9101, and in chapters 736,
400 738, 739, and 744, the term:

401 (2) "Beneficiary" means heir at law in an intestate estate
402 and devisee in a testate estate. The term "beneficiary" does not
403 apply to an heir at law or a devisee after that person's
404 interest in the estate has been satisfied. In the case of a
405 devise to an existing trust or trustee, or to a trust or trustee
406 described by will, the trustee is a beneficiary of the estate.
407 Except as otherwise provided in this subsection, the beneficiary
408 of the trust is not a beneficiary of the estate of which that
409 trust or the trustee of that trust is a beneficiary. However, if
410 each trustee is also a personal representative of the estate,
411 each qualified beneficiary of the trust as defined in s.
412 736.0103~~(14)~~ shall be regarded as a beneficiary of the estate.

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

421 regarded as a devisee.

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

424 733.212 Notice of administration; filing of objections.—

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

428 (a) The decedent's surviving spouse;

429 (b) Beneficiaries;

430 (c) The trustee of any trust described in s. 733.707(3)
 431 and each qualified beneficiary of the trust as defined in s.
 432 736.0103~~(14)~~, if each trustee is also a personal representative
 433 of the estate; and

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

435

436 in the manner provided for service of formal notice, unless
 437 served under s. 733.2123. The personal representative may
 438 similarly serve a copy of the notice on any devisees under a
 439 known prior will or heirs or others who claim or may claim an
 440 interest in the estate.

441 Section 18. Paragraph (f) of subsection (5) of section
 442 736.0802, Florida Statutes, is amended to read:

443 736.0802 Duty of loyalty.—

444 (5)

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

449 containing the following:

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

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

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

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

469

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

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

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

476 (I) If at the time the determination is made there are one

477 or more beneficiaries as described in s. 736.0103(16)(c)
 478 ~~736.0103(14)(e)~~, at least a majority in interest of the
 479 beneficiaries described in s. 736.0103(16)(a) ~~736.0103(14)(a)~~,
 480 at least a majority in interest of the beneficiaries described
 481 in s. 736.0103(16)(b) ~~736.0103(14)(b)~~, and at least a majority
 482 in interest of the beneficiaries described in s. 736.0103(16)(c)
 483 ~~736.0103(14)(e)~~, if the interests of the beneficiaries are
 484 reasonably ascertainable; otherwise, a majority in number of
 485 each such class; or

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

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

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

501 Section 19. Paragraph (a) of subsection (2) of section
 502 736.08125, Florida Statutes, is amended to read:

503 736.08125 Protection of successor trustees.—

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

505 (a) "Eligible beneficiaries" means:

506 1. At the time the determination is made, if there are one

507 or more beneficiaries as described in s. 736.0103(16)(c)

508 ~~736.0103(14)(e)~~, the beneficiaries described in s.

509 736.0103(16)(a) ~~736.0103(14)(a)~~ and (c); or

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

511 736.0103(16)(c) ~~736.0103(14)(e)~~, the beneficiaries described in

512 s. 736.0103(16)(a) ~~736.0103(14)(a)~~ and (b).

513 Section 20. Paragraph (d) of subsection (9) of section

514 738.104, Florida Statutes, is amended to read:

515 738.104 Trustee's power to adjust.—

516 (9)

517 (d) For purposes of subsection (8) and this subsection,

518 the term:

519 1. "Eligible beneficiaries" means:

520 a. If at the time the determination is made there are one

521 or more beneficiaries described in s. 736.0103(16)(c)

522 ~~736.0103(14)(e)~~, the beneficiaries described in s.

523 736.0103(16)(a) ~~736.0103(14)(a)~~ and (c); or

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

525 736.0103(16)(c) ~~736.0103(14)(e)~~, the beneficiaries described in

526 s. 736.0103(16)(a) ~~736.0103(14)(a)~~ and (b).

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

528 a. If at the time the determination is made there are one

529 or more beneficiaries described in s. 736.0103(16)(c)

530 ~~736.0103(14)(e)~~, at least two-thirds in interest of the

531 beneficiaries described in s. 736.0103(16)(a) ~~736.0103(14)(a)~~ or

532 two-thirds in interest of the beneficiaries described in s.

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533 | 736.0103(16)(c) ~~736.0103(14)(e)~~, if the interests of the
534 | beneficiaries are reasonably ascertainable; otherwise, it means
535 | two-thirds in number of either such class; or

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

543 | Section 21. Except as otherwise expressly provided in this
544 | act and except for this section, which shall take effect upon
545 | this act becoming a law, this act shall take effect October 1,
546 | 2013.