

By Senator Joyner

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1 A bill to be entitled
 2 An act relating to trusts; amending ss. 736.0703 and
 3 736.1011, F.S.; limiting the liability of excluded
 4 trustees; providing an exception; authorizing trusts
 5 to provide for exculpation of excluded trustees under
 6 certain circumstances; providing an effective date.

8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Subsection (9) of section 736.0703, Florida
 11 Statutes, is amended to read:

12 736.0703 Cotrustees.—

13 (9) If the terms of a trust ~~instrument~~ provide for the
 14 appointment of more than one trustee but confer upon one or more
 15 of the trustees, to the exclusion of the others, the power to
 16 direct or prevent specified actions of the trustees, the
 17 excluded trustees shall act in accordance with the exercise of
 18 the power. ~~Except in cases of willful misconduct on the part of~~
 19 ~~the trustee with the authority to direct or prevent actions of~~
 20 ~~the trustees of which the excluded trustee has actual knowledge,~~
 21 An excluded trustee is not liable, individually or as a
 22 fiduciary, for any consequence that results from compliance with
 23 the exercise of the power, regardless of the information
 24 available to the excluded trustee, unless with respect to the
 25 exercise of such power the excluded trustee has actual knowledge
 26 of willful misconduct by the trustee entrusted with the power to
 27 direct or prevent actions of the excluded trustees. To the
 28 extent provided by terms of the trust, an excluded trustee may
 29 be exculpated from that liability even if the excluded trustee

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30 has actual knowledge of willful misconduct by the trustee
31 entrusted with the power to direct or prevent actions of the
32 excluded trustees. An excluded trustee has no duty or trustees.
33 ~~The excluded trustees are relieved of any~~ obligation to review,
34 inquire, investigate, or make recommendations or evaluations
35 with respect to the exercise of the power. The trustee entrusted
36 with ~~or trustees having~~ the power to direct or prevent actions
37 of the excluded trustees shall be liable to the beneficiaries
38 with respect to the exercise of the power as if the excluded
39 trustees were not in office and shall have the exclusive
40 obligation to account to and to defend any action brought by the
41 beneficiaries with respect to the exercise of the power. This
42 subsection does not exculpate an excluded trustee from liability
43 arising from his or her willful misconduct.

44 Section 2. Subsection (3) is added to section 736.1011,
45 Florida Statutes, to read:

46 736.1011 Exculpation of trustee.-

47 (3) This section does not apply to terms of a trust which
48 exculpate an excluded trustee from liability for any consequence
49 that results from compliance with the exercise of a power
50 described in s. 736.0703(9).

51 Section 3. This act shall take effect July 1, 2014.