

By the Committee on Judiciary; and Senator Joyner

590-02441-14

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1 A bill to be entitled

2 An act relating to trusts; amending s. 736.0703, F.S.;
3 limiting the liability of excluded trustees; providing
4 that certain powers to direct the actions of a trustee
5 are not applicable under certain circumstances;
6 providing an effective date.

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

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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 excluded trustee ~~with the authority to direct or prevent~~
20 ~~actions of the trustees of which the excluded trustee has actual~~
21 ~~knowledge~~, an excluded trustee is not liable, individually or as
22 a fiduciary, for any consequence that results from compliance
23 with the exercise of the power, ~~regardless of the information~~
24 ~~available to the excluded trustees.~~ An ~~The~~ excluded trustee does
25 not have a duty or an ~~trustees are relieved of any obligation to~~
26 review, inquire, investigate, or make recommendations or
27 evaluations with respect to the exercise of the power. The
28 trustee or trustees having the power to direct or prevent
29 actions of the excluded trustees shall be liable to the

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30 beneficiaries with respect to the exercise of the power as if
31 the excluded trustees were not in office and shall have the
32 exclusive obligation to account to and to defend any action
33 brought by the beneficiaries with respect to the exercise of the
34 power. The provisions of s. 736.0808(2) do not apply if the
35 person entrusted with the power to direct the actions of the
36 excluded trustee is also a cotrustee.

37 Section 2. This act shall take effect July 1, 2014.