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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/17/2015	.	
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The Committee on Judiciary (Bean) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 47 - 96

and insert:

Section 1. Section 731.1055, Florida Statutes, is created to read:

731.1055 Disposition of real property.-The validity and effect of a disposition, whether intestate or testate, of real property in this state shall be determined by Florida law.

Section 2. Subsection (2) of section 731.106, Florida Statutes, is amended to read:



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12           731.106 Assets of nondomiciliaries.—

13           (2) When a nonresident decedent, whether or not a citizen  
14 of the United States, provides by will that the testamentary  
15 disposition of tangible or intangible personal property having a  
16 situs within this state, ~~or of real property in this state,~~  
17 shall be construed and regulated by the laws of this state, the  
18 validity and effect of the dispositions shall be determined by  
19 Florida law. The court may, and in the case of a decedent who  
20 was at the time of death a resident of a foreign country the  
21 court shall, direct the personal representative appointed in  
22 this state to make distribution directly to those designated by  
23 the decedent's will as beneficiaries of the tangible or  
24 intangible property or to the persons entitled to receive the  
25 decedent's personal estate under the laws of the decedent's  
26 domicile.

27           Section 3. Paragraph (k) of subsection (2) of section  
28 736.0105, Florida Statutes, is amended to read:

29           736.0105 Default and mandatory rules.—

30           (2) The terms of a trust prevail over any provision of this  
31 code except:

32           (k) The ability to modify a trust under s. 736.0412, except  
33 as provided in s. 736.0412(4) (b) or (c).

34           Section 3. Section 736.0412, Florida Statutes, is amended  
35 to read:

36           736.0412 Nonjudicial modification of irrevocable trust.—

37           (1) After the settlor's death, a trust may be modified at  
38 any time as provided in s. 736.04113(2) upon the unanimous  
39 agreement of the trustee and all qualified beneficiaries.

40           (2) Modification of a trust as authorized in this section



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41 is not prohibited by a spendthrift clause or by a provision in  
42 the trust instrument that prohibits amendment or revocation of  
43 the trust.

44 (3) An agreement to modify a trust under this section is  
45 binding on a beneficiary whose interest is represented by  
46 another person under part III of this code.

47 (4) This section does ~~shall~~ not apply to any trust:

48 (a) ~~Any trust~~ Created prior to January 1, 2001.

49 (b) ~~Any trust~~ Created after December 31, 2000, and before  
50 July 1, 2016, if, under the terms of the trust, all beneficial  
51 interests in the trust must vest or terminate within the period  
52 prescribed by the rule against perpetuities in s. 689.225(2),  
53 notwithstanding s. 689.225(2)(f), unless the terms of the trust  
54 expressly authorize nonjudicial modification.

55 (c) Created on or after July 1, 2016, during the first 90  
56 years after it is created, unless the terms of the trust  
57 expressly authorize nonjudicial modification.

58  
59 ===== T I T L E A M E N D M E N T =====

60 And the title is amended as follows:

61 Delete lines 2 - 6

62 and insert:

63 An act relating to estates; creating s. 731.1055,  
64 F.S.; providing that the validity and the effect of a  
65 specified disposition of real property be determined  
66 by Florida law; amending ss. 731.106 and 736.0105,  
67 F.S.; conforming provisions to changes made by the  
68 act, amending s.