

By the Committees on Rules; Banking and Insurance; and
Judiciary; and Senators Passidomo and Brandes

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1 A bill to be entitled
2 An act relating to wills and trusts; amending s.
3 731.201, F.S.; revising the definition of the term
4 "will" to include electronic wills; amending s.
5 732.506, F.S.; excluding electronic wills from
6 specified methods to revoke a will; creating s.
7 732.521, F.S.; providing a short title; creating s.
8 732.522, F.S.; defining terms; creating s. 732.523,
9 F.S.; specifying requirements that must be satisfied
10 in the execution of electronic wills; creating s.
11 732.524, F.S.; providing requirements for self-proof
12 of electronic wills; creating s. 732.525, F.S.;
13 specifying the circumstances under which a person is
14 deemed to be in the presence of or appearing before
15 another person; providing that an electronic record
16 satisfies the requirement that a record be in writing;
17 providing that an electronic signature satisfies the
18 requirement that a document be signed; providing
19 requirements for certain documents to be deemed
20 executed in this state; creating s. 732.526, F.S.;
21 authorizing an electronic will of a nonresident of
22 this state which is properly executed in this or
23 another state to be offered for and admitted to
24 probate in this state; providing the venue for the
25 probate of such electronic will; creating s. 732.527,
26 F.S.; specifying requirements for service as a
27 qualified custodian; requiring qualified custodians to
28 provide access to or information concerning the
29 electronic will, or the electronic record containing

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30 the electronic will, only to specified persons or as
31 directed by a court; authorizing a qualified custodian
32 to destroy the electronic record of an electronic will
33 after a certain date; providing conditions under which
34 a qualified custodian may cease serving as a qualified
35 custodian; requiring a qualified custodian to cease
36 serving in such capacity upon the written request of
37 the testator; requiring that a successor qualified
38 custodian agree in writing to serve in that capacity
39 for an electronic will before succeeding to office;
40 specifying what constitutes an affidavit of a
41 qualified custodian; requiring a qualified custodian
42 to deliver certain documents upon request from the
43 testator; prohibiting a qualified custodian from
44 charging the testator a fee for such documents under
45 certain circumstances; providing that a qualified
46 custodian is liable for certain damages under certain
47 circumstances; prohibiting a qualified custodian from
48 terminating or suspending access to, or downloads of,
49 an electronic will by the testator; requiring a
50 qualified custodian to deposit an electronic will with
51 the court upon receiving information that the testator
52 is dead; prohibiting a qualified custodian from
53 charging a fee for certain actions taken upon the
54 death of the testator; requiring a qualified custodian
55 to keep certain information confidential; amending s.
56 733.201, F.S.; providing for the proof of electronic
57 wills; providing requirements for admitting an
58 electronic will that is not self-proved into probate;

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59 providing that a paper copy of an electronic will
60 constitutes an "original" of the electronic will
61 subject to certain conditions; amending s. 736.0103,
62 F.S.; redefining the term "interests of the
63 beneficiaries"; amending s. 736.0105, F.S.; deleting a
64 requirement that a trust be for the benefit of the
65 trust's beneficiaries; amending s. 736.0109, F.S.;
66 revising provisions relating to notice or sending of
67 electronic trust documents; providing requirements for
68 such documents to be deemed sent; requiring a certain
69 authorization to specify documents subject to
70 electronic posting; revising requirements for a
71 recipient to electronically access such documents;
72 prohibiting the termination of a recipient's
73 electronic access to such documents from invalidating
74 certain notice or sending of electronic trust
75 documents; tolling specified limitations periods under
76 certain circumstances; providing requirements for
77 electronic access to such documents to be deemed
78 terminated by a sender; providing applicability;
79 amending s. 736.0110, F.S.; providing that the
80 Attorney General has standing to assert certain rights
81 in certain proceedings; amending s. 736.0403, F.S.;
82 providing that, for purposes of establishing the
83 validity of the testamentary aspects of a revocable
84 trust, the qualified custodian of the trust instrument
85 may not also be a trustee of the trust; amending s.
86 736.0404, F.S.; deleting a restriction on the purpose
87 for which a trust is created; amending s. 736.04117,

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88 F.S.; defining and redefining terms; authorizing an
89 authorized trustee to appoint all or part of the
90 principal of a trust to a second trust under certain
91 circumstances; providing requirements for the second
92 trust and its beneficiaries; providing that the second
93 trust may retain, omit, or create specified powers;
94 authorizing the term of the second trust to extend
95 beyond the term of the first trust; providing
96 requirements for distributions to a second trust when
97 the authorized trustee does not have absolute power;
98 providing requirements for such second trust;
99 providing requirements for grants of power by the
100 second trust; authorizing a second trust created by an
101 authorized trustee without absolute power to grant
102 absolute power to the second trust's trustee;
103 authorizing an authorized trustee to appoint the
104 principal of a first trust to a supplemental needs
105 trust under certain circumstances; providing
106 requirements for such supplemental needs trust;
107 prohibiting an authorized trustee from distributing
108 the principal of a trust in a manner that would reduce
109 specified tax benefits; prohibiting the distribution
110 of S corporation stock from a first trust to a second
111 trust under certain circumstances; prohibiting a
112 settlor from being treated as the owner of a second
113 trust if he or she was not treated as the owner of the
114 first trust; prohibiting an authorized trustee from
115 distributing a trust's interest in property to a
116 second trust if it is subject to specified rules of

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117 the Internal Revenue Code; prohibiting the exercise of
118 power to invade a trust's principal to increase an
119 authorized trustee's compensation or relieve him or
120 her from certain liability; specifying who an
121 authorized trustee must notify when he or she
122 exercises his or her power to invade the trust's
123 principal; specifying the documents that the
124 authorized trustee must provide with such notice;
125 amending s. 736.0708, F.S.; providing that a cotrustee
126 is entitled to reasonable compensation when the trust
127 does not specify compensation; providing that
128 reasonable compensation may be greater for multiple
129 trustees than for a single trustee; amending s.
130 736.08135, F.S.; revising applicability; amending s.
131 736.1008, F.S.; clarifying that certain knowledge by a
132 beneficiary does not cause a claim to accrue for
133 breach of trust or commence the running of a period of
134 limitations or laches; providing legislative intent;
135 providing for retroactive application; amending s.
136 736.1201, F.S.; defining the term "delivery of
137 notice"; conforming a provision to changes made by the
138 act; amending s. 736.1205, F.S.; requiring an
139 authorized trustee to provide certain notice to the
140 Attorney General rather than the state attorney;
141 providing applicability; amending ss. 736.1206,
142 736.1207, 736.1208, and 736.1209, F.S.; conforming
143 provisions to changes made by the act; providing
144 effective dates.
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146 Be It Enacted by the Legislature of the State of Florida:

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148 Section 1. Subsection (40) of section 731.201, Florida
149 Statutes, is amended to read:

150 731.201 General definitions.—Subject to additional
151 definitions in subsequent chapters that are applicable to
152 specific chapters or parts, and unless the context otherwise
153 requires, in this code, in s. 409.9101, and in chapters 736,
154 738, 739, and 744, the term:

155 (40) "Will" means an instrument, including a codicil,
156 executed by a person in the manner prescribed by this code,
157 which disposes of the person's property on or after his or her
158 death and includes an instrument which merely appoints a
159 personal representative or revokes or revises another will. The
160 term "will" includes an electronic will as defined in s.
161 732.522.

162 Section 2. Section 732.506, Florida Statutes, is amended to
163 read:

164 732.506 Revocation by act.—A will or codicil, other than an
165 electronic will, is revoked by the testator, or some other
166 person in the testator's presence and at the testator's
167 direction, by burning, tearing, canceling, defacing,
168 obliterating, or destroying it with the intent, and for the
169 purpose, of revocation.

170 Section 3. Section 732.521, Florida Statutes, is created to
171 read:

172 732.521 Short title.—Sections 732.521-732.527 may be cited
173 as the "Florida Electronic Wills Act."

174 Section 4. Section 732.522, Florida Statutes, is created to

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175 read:

176 732.522 Definitions.—As used in ss. 732.521-732.527, the
 177 term:

178 (1) "Electronic record" means a record created, generated,
 179 sent, communicated, received, or stored by electronic means.

180 (2) "Electronic signature" means an electronic mark visibly
 181 manifested in a record as a signature and executed or adopted by
 182 a person with the intent to sign the record.

183 (3) "Electronic will" means a will, including a codicil,
 184 executed in accordance with s. 732.523 by a person in the manner
 185 prescribed by this act, which disposes of the person's property
 186 on or after his or her death and includes an instrument that
 187 appoints a personal representative or revokes or revises another
 188 will or electronic will.

189 (4) "Qualified custodian" means a person who meets the
 190 requirements of s. 732.527(1).

191 Section 5. Section 732.523, Florida Statutes, is created to
 192 read:

193 732.523 Electronic wills.—Notwithstanding s. 732.502:

194 (1) An electronic will must meet all of the following
 195 requirements:

196 (a) Exist in an electronic record that is unique and
 197 identifiable.

198 (b) Be electronically signed by the testator in the
 199 presence of at least two attesting witnesses.

200 (c) Be electronically signed by the attesting witnesses in
 201 the presence of the testator and in the presence of each other.

202 (2) Except as otherwise provided in this act, all questions
 203 as to the force, effect, validity, and interpretation of an

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204 electronic will that complies with this section must be
205 determined in the same manner as in the case of a will executed
206 in accordance with s. 732.502.

207 Section 6. Section 732.524, Florida Statutes, is created to
208 read:

209 732.524 Self-proof of electronic will.—An electronic will
210 is self-proved if all of the following requirements are met:

211 (1) The electronic will is executed in conformity with this
212 act.

213 (2) The acknowledgment of the electronic will by the
214 testator and the affidavits of the witnesses are made in
215 accordance with s. 732.503 and are part of the electronic record
216 containing the electronic will, or are attached to, or are
217 logically associated with, the electronic will.

218 (3) (a) The electronic will designates a qualified
219 custodian;

220 (b) The electronic record that contains the electronic will
221 is held in the custody of a qualified custodian at all times
222 before being offered to the court for probate; and

223 (c) The qualified custodian who has custody of the
224 electronic will at the time of the testator's death:

225 1. Certifies under oath that, to the best knowledge of the
226 qualified custodian, the electronic record that contains the
227 electronic will was at all times before being offered to the
228 court in the custody of a qualified custodian in compliance with
229 s. 732.527 and that the electronic will has not been altered in
230 any way since the date of its execution; and

231 2. If the execution of the electronic will included the use
232 of video conference under s. 732.525(1) (b), certifies under oath

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233 that the audio and video recording required under s.
234 732.525(1)(b)9. is in the qualified custodian's custody in the
235 electronic record that contains the electronic will and is
236 available for inspection by the court.

237 Section 7. Section 732.525, Florida Statutes, is created to
238 read:

239 732.525 Method and place of execution.—For purposes of this
240 act, the execution and filing of a document with the court as
241 provided in this act or the Florida Probate Rules, the execution
242 of a living will under s. 765.302, and the acknowledgment of any
243 of the foregoing:

244 (1) An individual is deemed to be in the presence of or
245 appearing before another individual if the individuals are
246 either:

247 (a) In the same physical location; or

248 (b) In different physical locations, but can communicate
249 with each other by means of live video conference, if the
250 following requirements are met:

251 1. The testator or principal may not be in an end-stage
252 condition as defined in s. 765.101 or a vulnerable adult as
253 defined in s. 415.102. The contestant of the document has the
254 burden of proving that the testator or principal was in an end-
255 stage condition or was a vulnerable adult at the time of
256 executing the document.

257 2. The signal transmission must be live and in real time.

258 3. The signal transmission must be secure from interception
259 through lawful means by anyone other than the persons
260 communicating.

261 4. The persons communicating must simultaneously see and

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262 speak to one another with reasonable clarity.

263 5. In the video conference, the persons communicating must
264 establish the identity of the testator or principal by:

265 a. Personal knowledge, if the person asserting personal
266 knowledge explains how the identity of the testator or principal
267 has come to be known to, and the length of time for which it has
268 been known by, such person; or

269 b. Presentation of any of the forms of identification of
270 the testator or principal, as set forth in s. 117.05(5)(b)2.a.-
271 i.

272 6. In the video conference, the persons communicating must
273 demonstrate awareness of the events taking place, which may be
274 achieved, without limitation, by stating their names and
275 identifying any document they intend to sign.

276 7. At least one of the persons communicating must be
277 either:

278 a. An attorney licensed to practice law in this state:

279 (I) Who electronically signs the document as a witness;

280 (II) Whose status as an attorney licensed to practice law
281 in this state is indicated adjacent to his or her electronic
282 signature; and

283 (III) Whose electronic signature is accompanied by his or
284 her statement that, to the best of his or her knowledge, the
285 execution of the document complied with the requirements of this
286 section; or

287 b. A Florida notary public:

288 (I) Who electronically signs the document;

289 (II) Whose electronic signature is accompanied by a notary
290 public seal that meets the requirements of s. 117.021(3); and

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291 (III) Whose electronic signature and seal are accompanied
292 by his or her certification that, to the best of his or her
293 knowledge, the execution of the document complied with the
294 requirements of this section.

295

296 If a document is required to be witnessed or acknowledged, the
297 witness or notary fulfilling that requirement may be the same
298 witness or notary who fulfills the requirement of this
299 subparagraph. A person presented with a document containing the
300 statement or certification required under this subparagraph may
301 presume that the document was executed in compliance with this
302 paragraph, unless the person has notice that such compliance is
303 contested.

304 8. In the video conference, the testator or principal must
305 provide verbal answers to all of the following questions:

306 a. Are you over the age of 18?

307 b. Are you under the influence of any drugs or alcohol that
308 impairs your ability to make decisions?

309 c. Are you of sound mind?

310 d. Did anyone assist you in accessing this video
311 conference? If so, who?

312 e. Has anyone forced or influenced you to include anything
313 in this document which you do not wish to include?

314 f. Are you signing this document voluntarily?

315 9. A time-stamped recording of the entire video conference
316 must be identifiable with the document being signed and stored
317 in the electronic record containing the document by a qualified
318 custodian in the manner required pursuant to s. 732.527(1)(c)
319 for the storage of electronic records containing electronic

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320 wills.

321 a. Without limitation, a recording is identifiable with a
322 document if the recording and document share an identification
323 number.

324 b. If the recording is not reasonably accessible by a
325 person presented with the document, such person may treat the
326 document as if it does not include the signature of any
327 signatory who appeared by means of live video conference;
328 however, an electronic will whose execution included the use of
329 video conference under this section may be proved as provided in
330 s. 733.201(4). Without limitation, a recording is reasonably
331 accessible if it is accessible at no charge over the Internet
332 pursuant to instructions set forth in the document.

333 (2) If a law requires a record to be in writing, an
334 electronic record satisfies such provision.

335 (3) Any requirement that a document be signed may be
336 satisfied by an electronic signature.

337 (4) A document that is signed electronically is deemed to
338 be executed in this state if all of the following requirements
339 are met:

340 (a) The document states that the person creating the
341 document intends to execute and understands that he or she is
342 executing the document in, and pursuant to the laws of, this
343 state.

344 (b) The person creating the document is, or the attesting
345 witnesses or Florida notary public whose electronic signatures
346 are obtained in the execution of the document are, physically
347 located within this state at the time the document is executed.

348 (c) In the case of a self-proved electronic will, the

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349 electronic will designates a qualified custodian who is
350 domiciled in and a resident of this state or incorporated or
351 organized in this state.

352 Section 8. Section 732.526, Florida Statutes, is created to
353 read:

354 732.526 Probate.—An electronic will, other than a
355 holographic or nuncupative will, of a nonresident of this state
356 which is executed or deemed executed in another state in
357 accordance with the laws of that state or of this state may be
358 offered for and admitted to original probate in this state and
359 is subject to the jurisdiction of the courts of this state. The
360 venue for the probate of electronic wills is as provided in s.
361 733.101(1) or, in the case of the electronic will of a
362 nonresident, may be the county in which the qualified custodian
363 or attorney for the petitioner or personal representative has
364 his or her domicile or registered office.

365 Section 9. Section 732.527, Florida Statutes, is created to
366 read:

367 732.527 Qualified custodians.—

368 (1) To serve as a qualified custodian of an electronic
369 will, a person or entity must:

370 (a) Not be named as a fiduciary under the electronic will
371 or an heir or devisee, as defined in s. 731.201, of the
372 testator;

373 (b) Be domiciled in and a resident of this state or be
374 incorporated or organized in this state;

375 (c) In the course of maintaining custody of electronic
376 wills, regularly employ, and store electronic records containing
377 electronic wills in, a system that:

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378 1. Protects electronic records from destruction,
379 alteration, or unauthorized access; and

380 2. Detects any change to an electronic record; and

381 (d) Furnish for any court hearing involving an electronic
382 will that is currently or was previously stored by the qualified
383 custodian any information requested by the court pertaining to
384 the qualified custodian's qualifications, policies, and
385 practices related to the creation, sending, communication,
386 receipt, maintenance, storage, and production of electronic
387 wills.

388 (2) The qualified custodian of an electronic will shall
389 provide access to or information concerning the electronic will,
390 or the electronic record containing the electronic will, only:

391 (a) To the testator;

392 (b) To persons authorized by the testator in the electronic
393 will or in written instructions signed by the testator in
394 accordance with s. 732.502;

395 (c) After the death of the testator, to the testator's
396 nominated personal representative; or

397 (d) At any time, as directed by a court of competent
398 jurisdiction.

399 (3) The qualified custodian of the electronic record of an
400 electronic will may elect to destroy such record, including any
401 of the documentation required to be created and stored under
402 paragraph (1)(d), at any time after the earlier of the fifth
403 anniversary of the conclusion of the administration of the
404 estate of the testator or 20 years after the death of the
405 testator.

406 (4) A qualified custodian who at any time maintains custody

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407 of the electronic record of an electronic will may elect to
408 cease serving in such capacity by:

409 (a) Delivering the electronic will or the electronic record
410 containing the electronic will to the testator, if then living,
411 or, after the death of the testator, by filing the will with the
412 court in accordance with s. 732.901; and

413 (b) If the outgoing qualified custodian intends to
414 designate a successor qualified custodian, by doing the
415 following:

416 1. Providing written notice to the testator of the name,
417 address, and qualifications of the proposed successor qualified
418 custodian. The testator must provide written consent before the
419 electronic record, including the electronic will, is delivered
420 to a successor qualified custodian;

421 2. Delivering the electronic record containing the
422 electronic will to the successor qualified custodian; and

423 3. Delivering to the successor qualified custodian an
424 affidavit of the outgoing qualified custodian stating that:

425 a. The outgoing qualified custodian is eligible to act as a
426 qualified custodian in this state;

427 b. The outgoing qualified custodian is the qualified
428 custodian designated by the testator in the electronic will or
429 appointed to act in such capacity under this paragraph;

430 c. The electronic will has at all times been in the custody
431 of one or more qualified custodians in compliance with this
432 section since the time the electronic record was created, and
433 identifying such qualified custodians; and

434 d. To the best of the outgoing qualified custodian's
435 knowledge, the electronic will has not been altered since the

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436 time it was created.

437
438 For purposes of making this affidavit, the outgoing qualified
439 custodian may rely conclusively on any affidavits delivered by a
440 predecessor qualified custodian in connection with its
441 designation or appointment as qualified custodian; however, all
442 such affidavits must be delivered to the successor qualified
443 custodian.

444 (5) Upon the request of the testator which is made in a
445 writing signed in accordance with s. 732.502, a qualified
446 custodian who at any time maintains custody of the electronic
447 record of the testator's electronic will must cease serving in
448 such capacity and must deliver to a successor qualified
449 custodian designated in writing by the testator the electronic
450 record containing the electronic will and the affidavit required
451 in subparagraph (4) (b)3.

452 (6) A qualified custodian may not succeed to office as a
453 qualified custodian of an electronic will unless he or she
454 agrees in writing to serve in such capacity.

455 (7) If a qualified custodian is an entity, an affidavit, or
456 an appearance by the testator in the presence of a duly
457 authorized officer or agent of such entity, acting in his or her
458 own capacity as such, shall constitute an affidavit, or an
459 appearance by the testator in the presence of the qualified
460 custodian.

461 (8) A qualified custodian must provide a paper copy of an
462 electronic will and the electronic record containing the
463 electronic will to the testator immediately upon request. For
464 the first such request in any 365-day period, the testator may

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465 not be charged a fee for being provided with these documents.

466 (9) The qualified custodian shall be liable for any damages
467 caused by the negligent loss or destruction of the electronic
468 record, including the electronic will, while it is in the
469 possession of the qualified custodian. A qualified custodian may
470 not limit liability for such damages.

471 (10) A qualified custodian may not terminate or suspend
472 access to, or downloads of, the electronic will by the testator.

473 (11) Upon receiving information that the testator is dead,
474 a qualified custodian must deposit the electronic will with the
475 court in accordance with s. 732.901. A qualified custodian may
476 not charge a fee for depositing the electronic will with the
477 clerk, providing the affidavit is made in accordance with s.
478 732.503, or furnishing in writing any information requested by a
479 court under paragraph (1) (d).

480 (12) Except as provided in this act, a qualified custodian
481 must at all times keep information provided by the testator
482 confidential and may not disclose such information to any third
483 party.

484 Section 10. Section 733.201, Florida Statutes is amended to
485 read:

486 733.201 Proof of wills.—

487 (1) Self-proved wills executed in accordance with this code
488 may be admitted to probate without further proof.

489 (2) A will, other than an electronic will, may be admitted
490 to probate upon the oath of any attesting witness taken before
491 any circuit judge, commissioner appointed by the court, or
492 clerk.

493 (3) If it appears to the court that the attesting witnesses

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494 cannot be found or that they have become incapacitated after the
495 execution of the will or their testimony cannot be obtained
496 within a reasonable time, a will, other than an electronic will,
497 may be admitted to probate upon the oath of the personal
498 representative nominated by the will as provided in subsection
499 (2), whether or not the nominated personal representative is
500 interested in the estate, or upon the oath of any person having
501 no interest in the estate under the will stating that the person
502 believes the writing exhibited to be the true last will of the
503 decedent.

504 (4) If an electronic will, including an electronic will
505 whose execution included the use of a video conference under s.
506 732.525(1)(b), is not self-proved, an electronic will may be
507 admitted to probate upon the oath of the two attesting witnesses
508 for the electronic will taken before any circuit judge, any
509 commissioner appointed by the court, or the clerk. If it appears
510 to the court that the attesting witnesses cannot be found, that
511 they have become incapacitated after the execution of the
512 electronic will, or that their testimony cannot be obtained
513 within a reasonable time, an electronic will may be admitted to
514 probate upon the oath of two disinterested witnesses providing
515 all of the following information:

516 (a) The date on which the electronic will was created, if
517 the date is not indicated in the electronic will itself.

518 (b) When and how the electronic will was discovered, and by
519 whom.

520 (c) All of the people who had access to the electronic
521 will.

522 (d) The method by which the electronic will was stored and

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523 the safeguards that were in place to prevent alterations to the
524 electronic will.

525 (e) A statement as to whether the electronic will has been
526 altered since its creation.

527 (f) A statement that the electronic will is a true,
528 correct, and complete tangible manifestation of the testator's
529 will.

530 (g) If the execution of an electronic will included the use
531 of a video conference under s. 732.525(1)(b), a statement as to
532 whether a recording of the video conference is available for
533 inspection by the court or cannot be found after a diligent
534 search.

535 (5) A paper copy of an electronic will which is a true and
536 correct copy of the electronic will may be offered for and
537 admitted to probate and shall constitute an "original" of the
538 electronic will.

539 Section 11. Subsection (11) of section 736.0103, Florida
540 Statutes, is amended to read:

541 736.0103 Definitions.—Unless the context otherwise
542 requires, in this code:

543 (11) "Interests of the beneficiaries" means the beneficial
544 interests intended by the settlor as provided in the terms of a
545 ~~the~~ trust.

546 Section 12. Paragraph (c) of subsection (2) of section
547 736.0105, Florida Statutes, is amended to read:

548 736.0105 Default and mandatory rules.—

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

551 (c) The requirement that a trust ~~and its terms be for the~~

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552 ~~benefit of the trust's beneficiaries, and that the trust~~ have a
553 purpose that is lawful, not contrary to public policy, and
554 possible to achieve.

555 Section 13. Subsections (1) and (3) of section 736.0109,
556 Florida Statutes, are amended to read:

557 736.0109 Methods and waiver of notice.—

558 (1) Notice to a person under this code or the sending of a
559 document to a person under this code must be accomplished in a
560 manner reasonably suitable under the circumstances and likely to
561 result in receipt of the notice or document. Permissible methods
562 of notice or for sending a document include first-class mail,
563 personal delivery, delivery to the person's last known place of
564 residence or place of business, ~~or~~ a properly directed facsimile
565 or other electronic message, or posting to a secure electronic
566 account or website in accordance with subsection (3).

567 (3) A document that is sent solely by posting to an
568 electronic account or website is not deemed sent for purposes of
569 this section unless the sender complies with this subsection.
570 The sender has the burden of proving compliance with this
571 subsection ~~In addition to the methods listed in subsection (1)~~
572 ~~for sending a document, a sender may post a document to a secure~~
573 ~~electronic account or website where the document can be~~
574 ~~accessed.~~

575 (a) ~~Before a document may be posted to an electronic~~
576 ~~account or website,~~ The recipient must sign a separate written
577 authorization solely for the purpose of authorizing the sender
578 to post documents on an electronic account or website before
579 such posting. The written authorization must:

580 1. Specifically indicate whether a trust accounting, trust

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581 disclosure document, or limitation notice, as those terms are
582 defined in s. 736.1008(4), will be posted in this manner, and
583 generally enumerate the other types of documents that may be
584 posted in this manner.

585 2. Contain specific instructions for accessing the
586 electronic account or website, including the security procedures
587 required to access the electronic account or website, such as a
588 username and password.

589 3. Advise the recipient that a separate notice will be sent
590 when a document is posted to the electronic account or website
591 and the manner in which the separate notice will be sent.

592 4. Advise the recipient that the authorization to receive
593 documents by electronic posting may be amended or revoked at any
594 time and include specific instructions for revoking or amending
595 the authorization, including the address designated for the
596 purpose of receiving notice of the revocation or amendment.

597 5. Advise the recipient that posting a document on the
598 electronic account or website may commence a limitations period
599 as short as 6 months even if the recipient never actually
600 accesses the electronic account, electronic website, or ~~the~~
601 document.

602 (b) Once the recipient signs the written authorization, the
603 sender must provide a separate notice to the recipient when a
604 document is posted to the electronic account or website. As used
605 in this subsection, the term "separate notice" means a notice
606 sent to the recipient by means other than electronic posting,
607 which identifies each document posted to the electronic account
608 or website and provides instructions for accessing the ~~posted~~
609 document. The separate notice requirement is deemed satisfied if

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610 the recipient accesses the document on the electronic account or
611 website.

612 (c) A document sent by electronic posting is deemed
613 received by the recipient on the earlier of the date on which
614 ~~that~~ the separate notice is received or the date on which ~~that~~
615 the recipient accesses the document on the electronic account or
616 website.

617 (d) At least annually after a recipient signs a written
618 authorization, a sender shall send a notice advising recipients
619 who have authorized one or more documents to be posted to an
620 electronic account or website that such posting may commence a
621 limitations period as short as 6 months even if the recipient
622 never accesses the electronic account or website or the document
623 and that authority to receive documents by electronic posting
624 may be amended or revoked at any time. This notice must be given
625 by means other than electronic posting and may not be
626 accompanied by any other written communication. Failure to
627 provide such notice within 380 days after the last notice is
628 deemed to automatically revoke the authorization to receive
629 documents in the manner permitted under this subsection 380 days
630 after the last notice is sent.

631 (e) The notice required in paragraph (d) may be in
632 substantially the following form: "You have authorized the
633 receipt of documents through posting to an electronic account or
634 website on which ~~where~~ the documents can be accessed. This
635 notice is being sent to advise you that a limitations period,
636 which may be as short as 6 months, may be running as to matters
637 disclosed in a trust accounting or other written report of a
638 trustee posted to the electronic account or website even if you

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639 never actually access the electronic account or website or the
640 documents. You may amend or revoke the authorization to receive
641 documents by electronic posting at any time. If you have any
642 questions, please consult your attorney."

643 (f) A sender may rely on the recipient's authorization
644 until the recipient amends or revokes the authorization by
645 sending a notice to the address designated for that purpose in
646 the authorization or in the manner specified on the electronic
647 account or website. The recipient, at any time, may amend or
648 revoke an authorization to have documents posted on the
649 electronic account or website.

650 (g) If a document is provided to a recipient solely through
651 electronic posting pursuant to this subsection, the recipient
652 must be able to access and print or download the document until
653 the earlier of remain accessible to the recipient on the
654 electronic account or website for at least 4 years after the
655 date that the document is deemed received by the recipient or
656 the date upon which the recipient's access to the electronic
657 account or website is terminated for any reason.

658 1. If the recipient's access to the electronic account or
659 website is terminated for any reason, such termination does not
660 invalidate the notice or sending of any document previously
661 posted on the electronic account or website in accordance with
662 this subsection, but may toll the applicable limitations period
663 as provided in subparagraph 2.

664 2. If the recipient's access to the electronic account or
665 website is terminated by the sender sooner than 4 years after
666 the date on which the document was received by the recipient,
667 any applicable limitations period set forth in s. 736.1008(1) or

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668 (2) which is still running is tolled for any information
669 adequately disclosed in a document sent solely by electronic
670 posting, from the date on which the recipient's access to the
671 electronic account or website was terminated by the sender until
672 45 days after the date on which the sender provides one of the
673 following to the recipient by means other than electronic
674 posting:

675 a. Notice of such termination and notification to the
676 recipient that he or she may request that any documents sent
677 during the prior 4 years solely through electronic posting be
678 provided to him or her by other means at no cost; or

679 b. Notice of such termination and notification to the
680 recipient that his or her access to the electronic account or
681 website has been restored.

682
683 Any applicable limitations period is further tolled from the
684 date on which any request is made pursuant to sub-subparagraph
685 2.a. until 20 days after the date on which the requested
686 documents are provided to the recipient by means other than
687 electronic posting ~~The electronic account or website must allow~~
688 ~~the recipient to download or print the document. This subsection~~
689 ~~does not affect or alter the duties of a trustee to keep clear,~~
690 ~~distinct, and accurate records pursuant to s. 736.0810 or affect~~
691 ~~or alter the time periods for which the trustee must maintain~~
692 ~~those records.~~

693 (h) For purposes of this subsection, access to an
694 electronic account or website is terminated by the sender when
695 the sender unilaterally terminates the recipient's ability to
696 access the electronic website or account or download or print

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697 any document posted on such website or account. Access is not
698 terminated by the sender when access is terminated by an action
699 of the recipient or by an action of the sender in response to
700 the recipient's request to terminate access. The recipient's
701 revocation of authorization pursuant to paragraph (f) is not
702 considered a request to terminate access ~~To be effective, the~~
703 ~~posting of a document to an electronic account or website must~~
704 ~~be done in accordance with this subsection. The sender has the~~
705 ~~burden of establishing compliance with this subsection.~~

706 (i) This subsection does not affect or alter the duties of
707 a trustee to keep clear, distinct, and accurate records pursuant
708 to s. 736.0810 or affect or alter the time periods for which the
709 trustee must maintain such records ~~preclude the sending of a~~
710 ~~document by other means.~~

711 (j) This subsection governs the posting of a document
712 solely for the purpose of giving notice under this code or the
713 sending of a document to a person under this code and does not
714 prohibit or otherwise apply to the posting of a document to an
715 electronic account or website for any other purpose or preclude
716 the sending of a document by any other means.

717 Section 14. Subsection (3) of section 736.0110, Florida
718 Statutes, is amended to read:

719 736.0110 Others treated as qualified beneficiaries.—

720 (3) The Attorney General may assert the rights of a
721 qualified beneficiary with respect to a charitable trust having
722 its principal place of administration in this state. The
723 Attorney General has standing to assert such rights in any
724 judicial proceedings.

725 Section 15. Paragraph (b) of subsection (2) of section

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726 736.0403, Florida Statutes, is amended to read:

727 736.0403 Trusts created in other jurisdictions; formalities
728 required for revocable trusts.—

729 (2) Notwithstanding subsection (1):

730 (b) The testamentary aspects of a revocable trust, executed
731 by a settlor who is a domiciliary of this state at the time of
732 execution, are invalid unless the trust instrument is executed
733 by the settlor with the formalities required for the execution
734 of a will under s. 732.502 or an electronic will under s.
735 732.523 which is self-proved; however, the qualified custodian
736 of the trust instrument may not also be a trustee of the trust
737 ~~in this state~~. For purposes of this subsection, the term
738 "testamentary aspects" means those provisions of the trust
739 instrument that dispose of the trust property on or after the
740 death of the settlor other than to the settlor's estate.

741 Section 16. Section 736.0404, Florida Statutes, is amended
742 to read:

743 736.0404 Trust purposes.—A trust may be created only to the
744 extent the purposes of the trust are lawful, not contrary to
745 public policy, and possible to achieve. ~~A trust and its terms~~
746 ~~must be for the benefit of its beneficiaries.~~

747 Section 17. Effective upon becoming a law, section
748 736.04117, Florida Statutes, is amended to read:

749 736.04117 Trustee's power to invade principal in trust.—

750 (1) DEFINITIONS.—As used in this section, the term:

751 (a) "Absolute power" means ~~Unless the trust instrument~~
752 ~~expressly provides otherwise, a trustee who has absolute power~~
753 ~~under the terms of a trust to invade the principal of the trust,~~
754 ~~referred to in this section as the "first trust," to make~~

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755 ~~distributions to or for the benefit of one or more persons may~~
756 ~~instead exercise the power by appointing all or part of the~~
757 ~~principal of the trust subject to the power in favor of a~~
758 ~~trustee of another trust, referred to in this section as the~~
759 ~~"second trust," for the current benefit of one or more of such~~
760 ~~persons under the same trust instrument or under a different~~
761 ~~trust instrument; provided:~~

762 ~~1. The beneficiaries of the second trust may include only~~
763 ~~beneficiaries of the first trust;~~

764 ~~2. The second trust may not reduce any fixed income,~~
765 ~~annuity, or unitrust interest in the assets of the first trust;~~
766 ~~and~~

767 ~~3. If any contribution to the first trust qualified for a~~
768 ~~marital or charitable deduction for federal income, gift, or~~
769 ~~estate tax purposes under the Internal Revenue Code of 1986, as~~
770 ~~amended, the second trust shall not contain any provision which,~~
771 ~~if included in the first trust, would have prevented the first~~
772 ~~trust from qualifying for such a deduction or would have reduced~~
773 ~~the amount of such deduction.~~

774 ~~(b) For purposes of this subsection, an absolute power to~~
775 ~~invade principal shall include a power to invade principal that~~
776 ~~is not limited to specific or ascertainable purposes, such as~~
777 ~~health, education, maintenance, and support, regardless of~~
778 ~~whether ~~or not~~ the term "absolute" is used. A power to invade~~
779 ~~principal for purposes such as best interests, welfare, comfort,~~
780 ~~or happiness constitutes ~~shall constitute~~ an absolute power not~~
781 ~~limited to specific or ascertainable purposes.~~

782 ~~(b) "Authorized trustee" means a trustee, other than the~~
783 ~~settlor or a beneficiary, who has the power to invade the~~

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784 principal of a trust.

785 (c) "Beneficiary with a disability" means a beneficiary of
786 the first trust who the authorized trustee believes may qualify
787 for governmental benefits based on disability, regardless of
788 whether the beneficiary currently receives those benefits or has
789 been adjudicated incapacitated.

790 (d) "Current beneficiary" means a beneficiary who, on the
791 date his or her qualification is determined, is a distributee or
792 permissible distributee of trust income or principal. The term
793 includes the holder of a presently exercisable general power of
794 appointment but does not include a person who is a beneficiary
795 only because he or she holds another power of appointment.

796 (e) "Governmental benefits" means financial aid or services
797 from any state, federal, or other public agency.

798 (f) "Internal Revenue Code" means the Internal Revenue Code
799 of 1986, as amended.

800 (g) "Power of appointment" has the same meaning as provided
801 in s. 731.201(30).

802 (h) "Presently exercisable general power of appointment"
803 means a power of appointment exercisable by the powerholder at
804 the relevant time. The term:

805 1. Includes a power of appointment that is exercisable only
806 after the occurrence of a specified event or that is subject to
807 a specified restriction, but only after the event has occurred
808 or the restriction has been satisfied.

809 2. Does not include a power exercisable only upon the
810 powerholder's death.

811 (i) "Substantially similar" means that there is no material
812 change in a beneficiary's beneficial interests or in the power

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813 to make distributions and that the power to make a distribution
814 under a second trust for the benefit of a beneficiary who is an
815 individual is substantially similar to the power under the first
816 trust to make a distribution directly to the beneficiary. A
817 distribution is deemed to be for the benefit of a beneficiary
818 if:

819 1. The distribution is applied for the benefit of a
820 beneficiary;

821 2. The beneficiary is under a legal disability or the
822 trustee reasonably believes the beneficiary is incapacitated,
823 and the distribution is made as permitted under this code; or

824 3. The distribution is made as permitted under the terms of
825 the first trust instrument and the second trust instrument for
826 the benefit of the beneficiary.

827 (j) "Supplemental needs trust" means a trust that the
828 authorized trustee believes would not be considered a resource
829 for purposes of determining whether the beneficiary who has a
830 disability is eligible for governmental benefits.

831 (k) "Vested interest" means a current unconditional right
832 to receive a mandatory distribution of income, a specified
833 dollar amount, or a percentage of value of a trust, or a current
834 unconditional right to withdraw income, a specified dollar
835 amount, or a percentage of value of a trust, which right is not
836 subject to the occurrence of a specified event, the passage of a
837 specified time, or the exercise of discretion.

838 1. The term includes a presently exercisable general power
839 of appointment.

840 2. The term does not include a beneficiary's interest in a
841 trust if the trustee has discretion to make a distribution of

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842 trust property to a person other than such beneficiary.

843 (2) DISTRIBUTION FROM FIRST TRUST TO SECOND TRUST WHEN
844 AUTHORIZED TRUSTEE HAS ABSOLUTE POWER TO INVADE.—

845 (a) Unless a trust instrument expressly provides otherwise,
846 an authorized trustee who has absolute power under the terms of
847 the trust to invade its principal, referred to in this section
848 as the "first trust," to make current distributions to or for
849 the benefit of one or more beneficiaries may instead exercise
850 such power by appointing all or part of the principal of the
851 trust subject to such power in favor of a trustee of one or more
852 other trusts, whether created under the same trust instrument as
853 the first trust or a different trust instrument, including a
854 trust instrument created for the purposes of exercising the
855 power granted by this section, each referred to in this section
856 as the "second trust," for the current benefit of one or more of
857 such beneficiaries only if:

858 1. The beneficiaries of the second trust include only
859 beneficiaries of the first trust; and

860 2. The second trust does not reduce any vested interest.

861 (b) In an exercise of absolute power, the second trust may:

862 1. Retain a power of appointment granted in the first
863 trust;

864 2. Omit a power of appointment granted in the first trust,
865 other than a presently exercisable general power of appointment;

866 3. Create or modify a power of appointment if the
867 powerholder is a current beneficiary of the first trust;

868 4. Create or modify a power of appointment if the
869 powerholder is a beneficiary of the first trust who is not a
870 current beneficiary, but the exercise of the power of

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871 appointment may take effect only after the powerholder becomes,
872 or would have become if then living, a current beneficiary of
873 the first trust; and

874 5. Extend the term of the second trust beyond the term of
875 the first trust.

876 (c) The class of permissible appointees in favor of which a
877 created or modified power of appointment may be exercised may
878 differ from the class identified in the first trust.

879 (3) DISTRIBUTION FROM FIRST TRUST TO SECOND TRUST WHEN
880 AUTHORIZED TRUSTEE DOES NOT HAVE ABSOLUTE POWER TO INVADE.—
881 Unless the trust instrument expressly provides otherwise, an
882 authorized trustee who has a power, other than an absolute
883 power, under the terms of a first trust to invade principal to
884 make current distributions to or for the benefit of one or more
885 beneficiaries may instead exercise such power by appointing all
886 or part of the principal of the first trust subject to such
887 power in favor of a trustee of one or more second trusts. If the
888 authorized trustee exercises such power:

889 (a) The second trusts, in the aggregate, shall grant each
890 beneficiary of the first trust beneficial interests in the
891 second trusts which are substantially similar to the beneficial
892 interests of the beneficiary in the first trust.

893 (b) If the first trust grants a power of appointment to a
894 beneficiary of the first trust, the second trust shall grant
895 such power of appointment in the second trust to such
896 beneficiary, and the class of permissible appointees shall be
897 the same as in the first trust.

898 (c) If the first trust does not grant a power of
899 appointment to a beneficiary of the first trust, then the second

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900 trust may not grant a power of appointment in the second trust
901 to such beneficiary.

902 (d) Notwithstanding paragraphs (a), (b), and (c), the term
903 of the second trust may extend beyond the term of the first
904 trust, and, for any period after the first trust would have
905 otherwise terminated, in whole or in part, under the provisions
906 of the first trust, the trust instrument of the second trust
907 may, with respect to property subject to such extended term:

908 1. Include language providing the trustee with the absolute
909 power to invade the principal of the second trust during such
910 extended term; and

911 2. Create a power of appointment, if the powerholder is a
912 current beneficiary of the first trust, or expand the class of
913 permissible appointees in favor of which a power of appointment
914 may be exercised.

915 (4) DISTRIBUTION FROM FIRST TRUST TO SUPPLEMENTAL NEEDS
916 TRUST.-

917 (a) Notwithstanding subsections (2) and (3), unless the
918 trust instrument expressly provides otherwise, an authorized
919 trustee who has the power under the terms of a first trust to
920 invade the principal of the first trust to make current
921 distributions to or for the benefit of a beneficiary with a
922 disability may instead exercise such power by appointing all or
923 part of the principal of the first trust in favor of a trustee
924 of a second trust that is a supplemental needs trust if:

925 1. The supplemental needs trust benefits the beneficiary
926 with a disability;

927 2. The beneficiaries of the second trust include only
928 beneficiaries of the first trust; and

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929 3. The authorized trustee determines that the exercise of
930 such power will further the purposes of the first trust.

931 (b) Except as affected by any change to the interests of
932 the beneficiary with a disability, the second trusts, in the
933 aggregate, shall grant each other beneficiary of the first trust
934 beneficial interests in the second trusts which are
935 substantially similar to such beneficiary's beneficial interests
936 in the first trust.

937 (5) PROHIBITED DISTRIBUTIONS.—

938 (a) An authorized trustee may not distribute the principal
939 of a trust under this section in a manner that would prevent a
940 contribution to that trust from qualifying for, or that would
941 reduce the exclusion, deduction, or other federal tax benefit
942 that was originally claimed or could have been claimed for, that
943 contribution, including:

944 1. The exclusions under s. 2503(b) or s. 2503(c) of the
945 Internal Revenue Code;

946 2. A marital deduction under s. 2056, s. 2056A, or s. 2523
947 of the Internal Revenue Code;

948 3. A charitable deduction under s. 170(a), s. 642(c), s.
949 2055(a), or s. 2522(a) of the Internal Revenue Code;

950 4. Direct skip treatment under s. 2642(c) of the Internal
951 Revenue Code; or

952 5. Any other tax benefit for income, gift, estate, or
953 generation-skipping transfer tax purposes under the Internal
954 Revenue Code.

955 (b) If S corporation stock is held in the first trust, an
956 authorized trustee may not distribute all or part of that stock
957 to a second trust that is not a permitted shareholder under s.

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958 1361(c)(2) of the Internal Revenue Code. If the first trust
959 holds stock in an S corporation and is, or but for provisions of
960 paragraphs (a), (c), and (d) would be, a qualified subchapter S
961 trust within the meaning of s. 1361(d) of the Internal Revenue
962 Code, the second trust instrument may not include or omit a term
963 that prevents it from qualifying as a qualified subchapter S
964 trust.

965 (c) Except as provided in paragraphs (a), (b), and (d), an
966 authorized trustee may distribute the principal of a first trust
967 to a second trust regardless of whether the settlor is treated
968 as the owner of either trust under ss. 671-679 of the Internal
969 Revenue Code; however, if the settlor is not treated as the
970 owner of the first trust, he or she may not be treated as the
971 owner of the second trust unless he or she at all times has the
972 power to cause the second trust to cease being treated as if it
973 were owned by the settlor.

974 (d) If an interest in property which is subject to the
975 minimum distribution rules of s. 401(a)(9) of the Internal
976 Revenue Code is held in trust, an authorized trustee may not
977 distribute such an interest to a second trust under subsection
978 (2), subsection (3), or subsection (4) if the distribution would
979 shorten the otherwise applicable maximum distribution period.

980 (6) EXERCISE BY WRITING.—The exercise of a power to invade
981 principal under subsection (2), subsection (3), or subsection
982 (4) must ~~The exercise of a power to invade principal under~~
983 ~~subsection (1) shall be by a written an instrument in writing,~~
984 signed and acknowledged by the authorized trustee, and filed
985 with the records of the first trust.

986 (7)-(3) RESTRICTIONS ON EXERCISE OF POWER.—The exercise of a

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987 power to invade principal under subsection (2), subsection (3),
988 or subsection (4):

989 (a) Is ~~(1) shall be~~ considered the exercise of a power of
990 appointment, excluding other than a power to appoint to the
991 authorized trustee, the authorized trustee's creditors, the
992 authorized trustee's estate, or the creditors of the authorized
993 trustee's estate.

994 (b) Is, ~~and shall be~~ subject to the provisions of s.
995 689.225 covering the time at which the permissible period of the
996 rule against perpetuities begins and the law that determines the
997 permissible period of the rule against perpetuities of the first
998 trust.

999 (c) May be to a second trust created or administered under
1000 the law of any jurisdiction.

1001 (d) May not:

1002 1. Increase the authorized trustee's compensation beyond
1003 the compensation specified in the first trust instrument; or

1004 2. Relieve the authorized trustee from liability for breach
1005 of trust or provide for indemnification of the authorized
1006 trustee for any liability or claim to a greater extent than the
1007 first trust instrument; however, the exercise of the power may
1008 divide and reallocate fiduciary powers among fiduciaries and
1009 relieve a fiduciary from liability for an act or failure to act
1010 of another fiduciary as otherwise allowed under law or common
1011 law.

1012 (8) NOTICE.-

1013 (a)(4) The authorized trustee shall provide written
1014 notification of the manner in which he or she intends to
1015 exercise his or her power to invade principal to notify all

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1016 ~~qualified beneficiaries of the following parties first trust, in~~
 1017 ~~writing, at least 60 days before prior to the effective date of~~
 1018 ~~the authorized trustee's exercise of such power the trustee's~~
 1019 ~~power to invade principal pursuant to subsection (2), subsection~~
 1020 ~~(3), or subsection (4): (1), of the manner in which the trustee~~
 1021 ~~intends to exercise the power.~~

1022 1. All qualified beneficiaries of the first trust;

1023 2. If paragraph (5)(c) applies, the settlor of the first
 1024 trust;

1025 3. All trustees of the first trust; and

1026 4. Any person who has the power to remove or replace the
 1027 authorized trustee of the first trust.

1028 ~~(b) The authorized A copy of the proposed instrument~~
 1029 ~~exercising the power shall satisfy the trustee's notice~~
 1030 ~~obligation to provide notice under this subsection is satisfied~~
 1031 ~~when he or she provides copies of the proposed instrument~~
 1032 ~~exercising the power, the trust instrument of the first trust,~~
 1033 ~~and the proposed trust instrument of the second trust.~~

1034 ~~(c) If all of those required to be notified qualified~~
 1035 ~~beneficiaries waive the notice period by signed written~~
 1036 ~~instrument delivered to the authorized trustee, the authorized~~
 1037 ~~trustee's power to invade principal shall be exercisable~~
 1038 ~~immediately.~~

1039 ~~(d) The authorized trustee's notice under this subsection~~
 1040 ~~does shall not limit the right of any beneficiary to object to~~
 1041 ~~the exercise of the authorized trustee's power to invade~~
 1042 ~~principal except as otherwise provided in other applicable~~
 1043 ~~provisions of this code.~~

1044 (9)-(5) INAPPLICABILITY OF SPENDTHRIFT CLAUSE OR OTHER

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1045 PROHIBITION.—The exercise of the power to invade principal under
1046 subsection (2), subsection (3), or subsection (4) ~~(1)~~ is not
1047 prohibited by a spendthrift clause or by a provision in the
1048 trust instrument that prohibits amendment or revocation of the
1049 trust.

1050 (10) ~~(6)~~ NO DUTY TO EXERCISE.—Nothing in this section is
1051 intended to create or imply a duty to exercise a power to invade
1052 principal, and no inference of impropriety may ~~shall~~ be made as
1053 a result of an authorized trustee's failure to exercise a
1054 ~~trustee not exercising~~ the power to invade principal conferred
1055 under subsections (2), (3), and (4) ~~subsection (1)~~.

1056 (11) ~~(7)~~ NO ABRIDGEMENT OF COMMON LAW RIGHTS. ~~The provisions~~
1057 ~~of~~ This section may ~~shall~~ not be construed to abridge the right
1058 of any trustee who has a power of invasion to appoint property
1059 in further trust that arises under the terms of the first trust
1060 or under any other section of this code or under another
1061 provision of law or under common law.

1062 Section 18. Subsection (1) of section 736.0708, Florida
1063 Statutes, is amended to read:

1064 736.0708 Compensation of trustee.—

1065 (1) If the terms of a trust do not specify a ~~the~~ trustee's
1066 compensation, the a trustee, including each cotrustee, is
1067 entitled to compensation that is reasonable under the
1068 circumstances. In the aggregate, the reasonable compensation for
1069 multiple trustees may be greater than for a single trustee.

1070 Section 19. Subsection (3) of section 736.08135, Florida
1071 Statutes, is amended to read:

1072 736.08135 Trust accountings.—

1073 (3) Subsections (1) and (2) govern the form and content of

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1074 ~~This section applies to~~ all trust accountings rendered for any
1075 accounting periods beginning on or after January 1, 2003, and
1076 all trust accountings rendered on or after July 1, 2017. This
1077 subsection does not affect the beginning period from which a
1078 trustee is required to render a trust accounting.

1079 Section 20. Subsection (3) of section 736.1008, Florida
1080 Statutes, is amended to read:

1081 736.1008 Limitations on proceedings against trustees.—

1082 (3) When a trustee has not issued a final trust accounting
1083 or has not given written notice to the beneficiary of the
1084 availability of the trust records for examination and that
1085 claims with respect to matters not adequately disclosed may be
1086 barred, a claim against the trustee for breach of trust based on
1087 a matter not adequately disclosed in a trust disclosure document
1088 is barred as provided in chapter 95 and accrues when the
1089 beneficiary has actual knowledge of:

1090 (a) The facts upon which the claim is based, if such actual
1091 knowledge is established by clear and convincing evidence; or

1092 (b) The trustee's repudiation of the trust or adverse
1093 possession of trust assets.

1094
1095 Paragraph (a) applies to claims based upon acts or omissions
1096 occurring on or after July 1, 2008. A beneficiary's actual
1097 knowledge that he or she has not received a trust accounting
1098 does not cause a claim to accrue against the trustee for breach
1099 of trust based upon the failure to provide a trust accounting
1100 required by s. 736.0813 or former s. 737.303 and does not
1101 commence the running of any period of limitations or laches for
1102 such a claim, and paragraph (a) and chapter 95 do not bar any

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1103 such claim.

1104 Section 21. The changes to ss. 736.08135 and 736.1008,
1105 Florida Statutes, made by this act are intended to clarify
1106 existing law, are remedial in nature, and apply retroactively to
1107 all cases pending or commenced on or after July 1, 2017.

1108 Section 22. Present subsections (2), (3), and (4) of
1109 section 736.1201, Florida Statutes, are redesignated as
1110 subsections (3), (4), and (5), respectively, present subsection
1111 (5) of that section is amended, and a new subsection (2) is
1112 added to that section, to read:

1113 736.1201 Definitions.—As used in this part:

1114 (2) "Delivery of notice" means delivery of a written notice
1115 required under this part using any commercial delivery service
1116 requiring a signed receipt or by any form of mail requiring a
1117 signed receipt.

1118 ~~(5) "State attorney" means the state attorney for the~~
1119 ~~judicial circuit of the principal place of administration of the~~
1120 ~~trust pursuant to s. 736.0108.~~

1121 Section 23. Section 736.1205, Florida Statutes, is amended
1122 to read:

1123 736.1205 Notice that this part does not apply.—In the case
1124 of a power to make distributions, if the trustee determines that
1125 the governing instrument contains provisions that are more
1126 restrictive than s. 736.1204(2), or if the trust contains other
1127 powers, inconsistent with the provisions of s. 736.1204(3) that
1128 specifically direct acts by the trustee, the trustee shall
1129 notify the ~~state~~ Attorney General by delivery of notice when the
1130 trust becomes subject to this part. Section 736.1204 does not
1131 apply to any trust for which notice has been given pursuant to

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1132 this section unless the trust is amended to comply with the
1133 terms of this part.

1134 Section 24. Sections 1 through 10 and section 15 of this
1135 act apply to electronic wills executed on or after July 1, 2017.

1136 Section 25. Subsection (2) of section 736.1206, Florida
1137 Statutes, is amended to read:

1138 736.1206 Power to amend trust instrument.—

1139 (2) In the case of a charitable trust that is not subject
1140 to ~~the provisions of~~ subsection (1), the trustee may amend the
1141 governing instrument to comply with ~~the provisions of~~ s.

1142 736.1204(2) after delivery of notice to, and with the consent
1143 of, ~~the state~~ Attorney General.

1144 Section 26. Section 736.1207, Florida Statutes, is amended
1145 to read:

1146 736.1207 Power of court to permit deviation.—This part does
1147 not affect the power of a court to relieve a trustee from any
1148 restrictions on the powers and duties that are placed on the
1149 trustee by the governing instrument or applicable law for cause
1150 shown and on complaint of the trustee, the state Attorney
1151 General, or an affected beneficiary and notice to the affected
1152 parties.

1153 Section 27. Paragraph (b) of subsection (4) of section
1154 736.1208, Florida Statutes, is amended to read:

1155 736.1208 Release; property and persons affected; manner of
1156 effecting.—

1157 (4) Delivery of a release shall be accomplished as follows:

1158 (b) If the release is accomplished by reducing the class of
1159 permissible charitable organizations, by delivery of notice a
1160 ~~copy~~ of the release to the ~~state~~ Attorney General, including a

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1161 copy of the release.

1162 Section 28. Section 736.1209, Florida Statutes, is amended
1163 to read:

1164 736.1209 Election to come under this part.—With the consent
1165 of that organization or organizations, a trustee of a trust for
1166 the benefit of a public charitable organization or organizations
1167 may come under s. 736.1208(5) by delivery of notice to filing
1168 ~~with the state~~ Attorney General of the ~~an~~ election, accompanied
1169 by the proof of required consent. Thereafter the trust shall be
1170 subject to s. 736.1208(5).

1171 Section 29. Except as otherwise provided in this act and
1172 except for this section, which shall take effect upon becoming a
1173 law, this act shall take effect July 1, 2017.