



742124

LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/3R	.	Floor: SENAl/CA
04/28/2017 06:02 PM	.	05/04/2017 02:02 PM
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Senator Passidomo moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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



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12 (40) "Will" means an instrument, including a codicil,
13 executed by a person in the manner prescribed by this code,
14 which disposes of the person's property on or after his or her
15 death and includes an instrument which merely appoints a
16 personal representative or revokes or revises another will. The
17 term "will" includes an electronic will as defined in s.
18 732.522.

19 Section 2. Section 732.506, Florida Statutes, is amended to
20 read:

21 732.506 Revocation by act.—A will or codicil, other than an
22 electronic will, is revoked by the testator, or some other
23 person in the testator's presence and at the testator's
24 direction, by burning, tearing, canceling, defacing,
25 obliterating, or destroying it with the intent, and for the
26 purpose, of revocation.

27 Section 3. Section 732.521, Florida Statutes, is created to
28 read:

29 732.521 Short title.—Sections 732.521-732.528 may be cited
30 as the "Florida Electronic Wills Act."

31 Section 4. Section 732.522, Florida Statutes, is created to
32 read:

33 732.522 Definitions.—As used in ss. 732.521-732.528, the
34 term:

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

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

40 (3) "Electronic will" means a will, including a codicil,



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41 executed in accordance with s. 732.523 by a person in the manner
42 prescribed by this act, which disposes of the person's property
43 on or after his or her death and includes an instrument that
44 appoints a personal representative or revokes or revises another
45 will or electronic will.

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

48 Section 5. Section 732.523, Florida Statutes, is created to
49 read:

50 732.523 Electronic wills.—Notwithstanding s. 732.502:

51 (1) An electronic will must meet all of the following
52 requirements:

53 (a) Exist in an electronic record that is unique and
54 identifiable.

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

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

59 (2) Except as otherwise provided in this act, all questions
60 as to the force, effect, validity, and interpretation of an
61 electronic will that complies with this section must be
62 determined in the same manner as in the case of a will executed
63 in accordance with s. 732.502.

64 Section 6. Section 732.524, Florida Statutes, is created to
65 read:

66 732.524 Self-proof of electronic will.—An electronic will
67 is self-proved if all of the following requirements are met:

68 (1) The electronic will is executed in conformity with this
69 act.



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70 (2) The acknowledgment of the electronic will by the
71 testator and the affidavits of the witnesses are made in
72 accordance with s. 732.503 and are part of the electronic record
73 containing the electronic will, or are attached to, or are
74 logically associated with, the electronic will.

75 (3) (a) The electronic will designates a qualified
76 custodian;

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

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

82 1. Certifies under oath that, to the best knowledge of the
83 qualified custodian, the electronic record that contains the
84 electronic will was at all times before being offered to the
85 court in the custody of a qualified custodian in compliance with
86 s. 732.527 and that the electronic will has not been altered in
87 any way since the date of its execution; and

88 2. If the execution of the electronic will included the use
89 of video conference under s. 732.525(1) (b), certifies under oath
90 that the audio and video recording required under s.
91 732.525(1) (b) 9. is in the qualified custodian's custody in the
92 electronic record that contains the electronic will and is
93 available for inspection by the court.

94 Section 7. Section 732.525, Florida Statutes, is created to
95 read:

96 732.525 Method and place of execution.—For purposes of this
97 act, the execution and filing of a document with the court as
98 provided in this act, s. 732.503, or the Florida Probate Rules;



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99 the execution of a living will under s. 765.302; and the
100 acknowledgment of any of the foregoing:
101 (1) An individual is deemed to be in the presence of or
102 appearing before another individual if the individuals are
103 either:
104 (a) In the same physical location; or
105 (b) In different physical locations, but can communicate
106 with each other by means of live video conference, and all of
107 the following requirements are met:
108 1. The testator or principal may not be in an end-stage
109 condition as defined in s. 765.101 or a vulnerable adult as
110 defined in s. 415.102. The contestant of the document has the
111 burden of proving that the testator or principal was in an end-
112 stage condition or was a vulnerable adult at the time of
113 executing the document.
114 2. The signal transmission must be live and in real time.
115 3. The signal transmission must be secure from interception
116 through lawful means by anyone other than the persons
117 communicating.
118 4. The persons communicating must simultaneously see and
119 speak to one another with reasonable clarity.
120 5. In the video conference, the persons communicating must
121 establish the identity of the testator or principal by:
122 a. Personal knowledge, if the person asserting personal
123 knowledge explains how the identity of the testator or principal
124 has come to be known to, and the length of time for which it has
125 been known by, such person; or
126 b. Presentation of any of the forms of identification of
127 the testator or principal, as set forth in s. 117.05(5)(b)2.a.-



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128 i.
129 6. In the video conference, the persons communicating must
130 demonstrate awareness of the events taking place, which may be
131 achieved, without limitation, by stating their names and
132 identifying any document they intend to sign.
133 7. At least one of the persons communicating must be
134 either:
135 a. An attorney licensed to practice law in this state:
136 (I) Who electronically signs the document as a witness;
137 (II) Whose status as an attorney licensed to practice law
138 in this state is indicated adjacent to his or her electronic
139 signature; and
140 (III) Whose electronic signature is accompanied by his or
141 her statement that, to the best of his or her knowledge, the
142 execution of the document complied with the requirements of this
143 section; or
144 b. A Florida notary public:
145 (I) Who electronically signs the document;
146 (II) Whose electronic signature is accompanied by a notary
147 public seal that meets the requirements of s. 117.021(3); and
148 (III) Whose electronic signature and seal are accompanied
149 by his or her certification that, to the best of his or her
150 knowledge, the execution of the document complied with the
151 requirements of this section.
152
153 If a document is required to be witnessed or acknowledged, the
154 witness or notary fulfilling that requirement may be the same
155 witness or notary who fulfills the requirement of this
156 subparagraph. A person presented with a document containing the



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157 statement or certification required under this subparagraph may
158 presume that the document was executed in compliance with this
159 paragraph, unless the person has notice that such compliance is
160 contested.

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

163 a. Are you over the age of 18?

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

166 c. Are you of sound mind?

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

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

171 f. Are you signing this document voluntarily?

172 9. A time-stamped recording of the entire video conference
173 must be identifiable with the document being signed and stored
174 in the electronic record containing the document by a qualified
175 custodian in the manner required pursuant to s. 732.527(1)(c)
176 for the storage of electronic records containing electronic
177 wills.

178 a. Without limitation, a recording is identifiable with a
179 document if the recording and document share an identification
180 number.

181 b. If the recording is not reasonably accessible by a
182 person presented with the document, such person may treat the
183 document as if it does not include the signature of any
184 signatory who appeared by means of live video conference;
185 however, an electronic will whose execution included the use of



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186 video conference under this section may be proved as provided in
187 s. 733.201(4). Without limitation, a recording is reasonably
188 accessible if it is accessible at no charge over the Internet
189 pursuant to instructions set forth in the document.

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

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

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

197 (a) The document states that the person creating the
198 document intends to execute and understands that he or she is
199 executing the document in, and pursuant to the laws of, this
200 state.

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

205 (c) In the case of a self-proved electronic will, the
206 electronic will designates a qualified custodian who is
207 domiciled in and a resident of this state or incorporated or
208 organized in this state.

209 Section 8. Section 732.526, Florida Statutes, is created to
210 read:

211 732.526 Probate.—An electronic will, other than a
212 holographic or nuncupative will, of a nonresident of this state
213 which is executed or deemed executed in another state in
214 accordance with the laws of that state or of this state may be



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215 offered for and admitted to original probate in this state and
216 is subject to the jurisdiction of the courts of this state. The
217 venue for the probate of electronic wills is as provided in s.
218 733.101(1) or, in the case of the electronic will of a
219 nonresident, may be the county in which the qualified custodian
220 or attorney for the petitioner or personal representative has
221 his or her domicile or registered office.

222 Section 9. Section 732.527, Florida Statutes, is created to
223 read:

224 732.527 Qualified custodians.—

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

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

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

232 (c) In the course of maintaining custody of electronic
233 wills, regularly employ, and store electronic records containing
234 electronic wills in, a system that:

235 1. Protects electronic records from destruction,
236 alteration, or unauthorized access; and

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

238 (d) Furnish for any court hearing involving an electronic
239 will that is currently or was previously stored by the qualified
240 custodian any information requested by the court pertaining to
241 the qualified custodian's qualifications, policies, and
242 practices related to the creation, sending, communication,
243 receipt, maintenance, storage, and production of electronic



244 wills.

245 (2) The qualified custodian of an electronic will shall
246 provide access to or information concerning the electronic will,
247 or the electronic record containing the electronic will, only:

248 (a) To the testator;

249 (b) To persons authorized by the testator in the electronic
250 will or in written instructions signed by the testator in
251 accordance with s. 732.502;

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

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

256 (3) The qualified custodian of the electronic record of an
257 electronic will may elect to destroy such record, including any
258 of the documentation required to be created and stored under
259 paragraph (1)(d), at any time after the earlier of the fifth
260 anniversary of the conclusion of the administration of the
261 estate of the testator or 20 years after the death of the
262 testator.

263 (4) A qualified custodian who at any time maintains custody
264 of the electronic record of an electronic will may elect to
265 cease serving in such capacity by:

266 (a) Delivering the electronic will or the electronic record
267 containing the electronic will to the testator, if then living,
268 or, after the death of the testator, by filing the will with the
269 court in accordance with s. 732.901; and

270 (b) If the outgoing qualified custodian intends to
271 designate a successor qualified custodian, by doing the
272 following:



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273 1. Providing written notice to the testator of the name,
274 address, and qualifications of the proposed successor qualified
275 custodian. The testator must provide written consent before the
276 electronic record, including the electronic will, is delivered
277 to a successor qualified custodian;

278 2. Delivering the electronic record containing the
279 electronic will to the successor qualified custodian; and

280 3. Delivering to the successor qualified custodian an
281 affidavit of the outgoing qualified custodian stating that:

282 a. The outgoing qualified custodian is eligible to act as a
283 qualified custodian in this state;

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

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

291 d. To the best of the outgoing qualified custodian's
292 knowledge, the electronic will has not been altered since the
293 time it was created.

294

295 For purposes of making this affidavit, the outgoing qualified
296 custodian may rely conclusively on any affidavits delivered by a
297 predecessor qualified custodian in connection with its
298 designation or appointment as qualified custodian; however, all
299 such affidavits must be delivered to the successor qualified
300 custodian.

301 (5) Upon the request of the testator which is made in a



302 writing signed in accordance with s. 732.502 or s. 732.523, a
303 qualified custodian who at any time maintains custody of the
304 electronic record of the testator's electronic will must cease
305 servicing in such capacity and must deliver to a successor
306 qualified custodian designated in writing by the testator the
307 electronic record containing the electronic will and the
308 affidavit required in subparagraph (4) (b)3.

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

312 (7) If a qualified custodian is an entity, an affidavit, or
313 an appearance by the testator in the presence of a duly
314 authorized officer or agent of such entity, acting in his or her
315 own capacity as such, shall constitute an affidavit, or an
316 appearance by the testator in the presence of the qualified
317 custodian.

318 (8) A qualified custodian must provide a paper copy of an
319 electronic will and the electronic record containing the
320 electronic will to the testator immediately upon request. For
321 the first such request in any 365-day period, the testator may
322 not be charged a fee for being provided with these documents.

323 (9) The qualified custodian shall be liable for any damages
324 caused by the negligent loss or destruction of the electronic
325 record, including the electronic will, while it is in the
326 possession of the qualified custodian. A qualified custodian may
327 not limit liability for such damages.

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

330 (11) Upon receiving information that the testator is dead,



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331 a qualified custodian must deposit the electronic will with the
332 court in accordance with s. 732.901. A qualified custodian may
333 not charge a fee for depositing the electronic will with the
334 clerk, providing the affidavit is made in accordance with s.
335 732.503, or furnishing in writing any information requested by a
336 court under paragraph (1) (d).

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

341 Section 10. Section 732.528, Florida Statutes, is created
342 to read:

343 732.528 Liability coverage; receivership of qualified
344 custodians.-

345 (1) A qualified custodian shall:

346 (a) Post and maintain a blanket surety bond of at least
347 \$250,000 to secure the faithful performance of all duties and
348 obligations required under this act. The bond must be made
349 payable to the Governor and his or her successors in office for
350 the benefit of all persons who store electronic records with a
351 qualified custodian and their estates, beneficiaries,
352 successors, and heirs and be conditioned on the faithful
353 performance of all duties and obligations under this act. The
354 terms of the bond must cover the acts or omissions of the
355 qualified custodian and each agent or employee of the qualified
356 custodian; or

357 (b) Maintain a liability insurance policy that covers any
358 losses sustained by any person who stores electronic records
359 with a qualified custodian and their estates, beneficiaries,



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360 successors, and heirs which are caused by errors or omissions by
361 the qualified custodian and each agent or employee of the
362 qualified custodian. The policy must cover losses of up to at
363 least \$250,000 in the aggregate.

364 (2) The Attorney General may petition a court of competent
365 jurisdiction for the appointment of a receiver to manage the
366 electronic records of a qualified custodian for proper delivery
367 and safekeeping if any of the following conditions exist:

368 (a) The qualified custodian is ceasing operation.

369 (b) The qualified custodian intends to close the facility
370 and adequate arrangements have not been made for proper delivery
371 of the electronic records in accordance with this act.

372 (c) The Attorney General determines that conditions exist
373 which present a danger that electronic records will be lost or
374 misappropriated.

375 (d) The qualified custodian fails to maintain and post a
376 surety bond or maintain insurance required by this section.

377 Section 11. Present subsection (5) of section 732.901,
378 Florida Statutes, is redesignated as subsection (6) of that
379 section, and a new subsection (5) is added to that section, to
380 read:

381 732.901 Production of wills.—

382 (5) An electronic will that is filed electronically with
383 the clerk through the Florida Courts E-Filing Portal is deemed
384 to have been deposited with the clerk as an original of the
385 electronic will.

386 Section 12. Section 733.201, Florida Statutes, is amended
387 to read:

388 733.201 Proof of wills.—



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

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

395 (3) If it appears to the court that the attesting witnesses
396 cannot be found or that they have become incapacitated after the
397 execution of the will or their testimony cannot be obtained
398 within a reasonable time, a will, other than an electronic will,
399 may be admitted to probate upon the oath of the personal
400 representative nominated by the will as provided in subsection
401 (2), whether or not the nominated personal representative is
402 interested in the estate, or upon the oath of any person having
403 no interest in the estate under the will stating that the person
404 believes the writing exhibited to be the true last will of the
405 decedent.

406 (4) If an electronic will, including an electronic will
407 whose execution included the use of a video conference under s.
408 732.525(1)(b), is not self-proved, an electronic will may be
409 admitted to probate upon the oath of the two attesting witnesses
410 for the electronic will taken before any circuit judge, any
411 commissioner appointed by the court, or the clerk. If it appears
412 to the court that the attesting witnesses cannot be found, that
413 they have become incapacitated after the execution of the
414 electronic will, or that their testimony cannot be obtained
415 within a reasonable time, an electronic will may be admitted to
416 probate upon the oath of two disinterested witnesses providing
417 all of the following information:



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

420 (b) When and how the electronic will was discovered, and by
421 whom.

422 (c) All of the people who had access to the electronic
423 will.

424 (d) The method by which the electronic will was stored and
425 the safeguards that were in place to prevent alterations to the
426 electronic will.

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

429 (f) A statement that the electronic will is a true,
430 correct, and complete tangible manifestation of the testator's
431 true last will.

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

437 (5) A paper copy of an electronic will which is a true and
438 correct copy of the electronic will may be offered for and
439 admitted to probate and shall constitute an "original" of the
440 electronic will.

441 Section 13. Subsection (11) of section 736.0103, Florida
442 Statutes, is amended to read:

443 736.0103 Definitions.—Unless the context otherwise
444 requires, in this code:

445 (11) "Interests of the beneficiaries" means the beneficial
446 interests intended by the settlor as provided in the terms of a



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447 ~~the~~ trust.

448 Section 14. Paragraph (c) of subsection (2) of section
449 736.0105, Florida Statutes, is amended to read:

450 736.0105 Default and mandatory rules.-

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

453 (c) The requirement that a trust ~~and its terms be for the~~
454 ~~benefit of the trust's beneficiaries, and that the trust~~ have a
455 purpose that is lawful, not contrary to public policy, and
456 possible to achieve.

457 Section 15. Subsections (1) and (3) of section 736.0109,
458 Florida Statutes, are amended to read:

459 736.0109 Methods and waiver of notice.-

460 (1) Notice to a person under this code or the sending of a
461 document to a person under this code must be accomplished in a
462 manner reasonably suitable under the circumstances and likely to
463 result in receipt of the notice or document. Permissible methods
464 of notice or for sending a document include first-class mail,
465 personal delivery, delivery to the person's last known place of
466 residence or place of business, ~~or~~ a properly directed facsimile
467 or other electronic message, or posting to a secure electronic
468 account or website in accordance with subsection (3).

469 (3) A document that is sent solely by posting to an
470 electronic account or website is not deemed sent for purposes of
471 this section unless the sender complies with this subsection.

472 The sender has the burden of proving compliance with this
473 subsection ~~In addition to the methods listed in subsection (1)~~
474 ~~for sending a document, a sender may post a document to a secure~~
475 ~~electronic account or website where the document can be~~



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476 accessed.

477 ~~(a) Before a document may be posted to an electronic~~
478 ~~account or website,~~ The recipient must sign a separate written
479 authorization solely for the purpose of authorizing the sender
480 to post documents on an electronic account or website before
481 such posting. The written authorization must:

482 1. Specifically indicate whether a trust accounting, trust
483 disclosure document, or limitation notice, as those terms are
484 defined in s. 736.1008(4), will be posted in this manner, and
485 generally enumerate the other types of documents that may be
486 posted in this manner.

487 2. Contain specific instructions for accessing the
488 electronic account or website, including the security procedures
489 required to access the electronic account or website, such as a
490 username and password.

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

494 4. Advise the recipient that the authorization to receive
495 documents by electronic posting may be amended or revoked at any
496 time and include specific instructions for revoking or amending
497 the authorization, including the address designated for the
498 purpose of receiving notice of the revocation or amendment.

499 5. Advise the recipient that posting a document on the
500 electronic account or website may commence a limitations period
501 as short as 6 months even if the recipient never actually
502 accesses the electronic account, electronic website, or ~~the~~
503 document.

504 (b) Once the recipient signs the written authorization, the



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505 sender must provide a separate notice to the recipient when a
506 document is posted to the electronic account or website. As used
507 in this subsection, the term "separate notice" means a notice
508 sent to the recipient by means other than electronic posting,
509 which identifies each document posted to the electronic account
510 or website and provides instructions for accessing the ~~posted~~
511 document. The separate notice requirement is deemed satisfied if
512 the recipient accesses the document on the electronic account or
513 website.

514 (c) A document sent by electronic posting is deemed
515 received by the recipient on the earlier of the date on which
516 ~~that~~ the separate notice is received or the date on which ~~that~~
517 the recipient accesses the document on the electronic account or
518 website.

519 (d) At least annually after a recipient signs a written
520 authorization, a sender shall send a notice advising recipients
521 who have authorized one or more documents to be posted to an
522 electronic account or website that such posting may commence a
523 limitations period as short as 6 months even if the recipient
524 never accesses the electronic account or website or the document
525 and that authority to receive documents by electronic posting
526 may be amended or revoked at any time. This notice must be given
527 by means other than electronic posting and may not be
528 accompanied by any other written communication. Failure to
529 provide such notice within 380 days after the last notice is
530 deemed to automatically revoke the authorization to receive
531 documents in the manner permitted under this subsection 380 days
532 after the last notice is sent.

533 (e) The notice required in paragraph (d) may be in



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534 substantially the following form: "You have authorized the
535 receipt of documents through posting to an electronic account or
536 website on which ~~where~~ the documents can be accessed. This
537 notice is being sent to advise you that a limitations period,
538 which may be as short as 6 months, may be running as to matters
539 disclosed in a trust accounting or other written report of a
540 trustee posted to the electronic account or website even if you
541 never actually access the electronic account or website or the
542 documents. You may amend or revoke the authorization to receive
543 documents by electronic posting at any time. If you have any
544 questions, please consult your attorney."

545 (f) A sender may rely on the recipient's authorization
546 until the recipient amends or revokes the authorization by
547 sending a notice to the address designated for that purpose in
548 the authorization or in the manner specified on the electronic
549 account or website. The recipient, at any time, may amend or
550 revoke an authorization to have documents posted on the
551 electronic account or website.

552 (g) If a document is provided to a recipient solely through
553 electronic posting pursuant to this subsection, the recipient
554 must be able to access and print or download the document until
555 the earlier of ~~remain accessible to the recipient on the~~
556 ~~electronic account or website for at least 4 years after the~~
557 ~~date that the document is deemed received by the recipient~~ or
558 the date upon which the recipient's access to the electronic
559 account or website is terminated for any reason.

560 1. If the recipient's access to the electronic account or
561 website is terminated for any reason, such termination does not
562 invalidate the notice or sending of any document previously



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563 posted on the electronic account or website in accordance with
564 this subsection, but may toll the applicable limitations period
565 as provided in subparagraph 2.

566 2. If the recipient's access to the electronic account or
567 website is terminated by the sender sooner than 4 years after
568 the date on which the document was received by the recipient,
569 any applicable limitations period set forth in s. 736.1008(1) or
570 (2) which is still running is tolled for any information
571 adequately disclosed in a document sent solely by electronic
572 posting, from the date on which the recipient's access to the
573 electronic account or website was terminated by the sender until
574 45 days after the date on which the sender provides one of the
575 following to the recipient by means other than electronic
576 posting:

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

581 b. Notice of such termination and notification to the
582 recipient that his or her access to the electronic account or
583 website has been restored.

584
585 Any applicable limitations period is further tolled from the
586 date on which any request is made pursuant to sub-subparagraph
587 2.a. until 20 days after the date on which the requested
588 documents are provided to the recipient by means other than
589 electronic posting ~~The electronic account or website must allow~~
590 ~~the recipient to download or print the document. This subsection~~
591 ~~does not affect or alter the duties of a trustee to keep clear,~~



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592 ~~distinct, and accurate records pursuant to s. 736.0810 or affect~~
593 ~~or alter the time periods for which the trustee must maintain~~
594 ~~those records.~~

595 (h) For purposes of this subsection, access to an
596 electronic account or website is terminated by the sender when
597 the sender unilaterally terminates the recipient's ability to
598 access the electronic website or account or download or print
599 any document posted on such website or account. Access is not
600 terminated by the sender when access is terminated by an action
601 of the recipient or by an action of the sender in response to
602 the recipient's request to terminate access. The recipient's
603 revocation of authorization pursuant to paragraph (f) is not
604 considered a request to terminate access ~~To be effective, the~~
605 ~~posting of a document to an electronic account or website must~~
606 ~~be done in accordance with this subsection. The sender has the~~
607 ~~burden of establishing compliance with this subsection.~~

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

613 (j) This subsection governs the posting of a document
614 solely for the purpose of giving notice under this code or the
615 sending of a document to a person under this code and does not
616 prohibit or otherwise apply to the posting of a document to an
617 electronic account or website for any other purpose or preclude
618 the sending of a document by any other means.

619 Section 16. Subsection (3) of section 736.0110, Florida
620 Statutes, is amended to read:



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621 736.0110 Others treated as qualified beneficiaries.—

622 (3) The Attorney General may assert the rights of a
623 qualified beneficiary with respect to a charitable trust having
624 its principal place of administration in this state. The
625 Attorney General has standing to assert such rights in any
626 judicial proceedings.

627 Section 17. Paragraph (b) of subsection (2) of section
628 736.0403, Florida Statutes, is amended to read:

629 736.0403 Trusts created in other jurisdictions; formalities
630 required for revocable trusts.—

631 (2) Notwithstanding subsection (1):

632 (b) The testamentary aspects of a revocable trust, executed
633 by a settlor who is a domiciliary of this state at the time of
634 execution, are invalid unless the trust instrument is executed
635 by the settlor with the formalities required for the execution
636 of a will under s. 732.502 or an electronic will under s.
637 732.523 which is self-proved; however, the qualified custodian
638 of the trust instrument may not also be a trustee of the trust
639 ~~in this state~~. For purposes of this subsection, the term
640 "testamentary aspects" means those provisions of the trust
641 instrument that dispose of the trust property on or after the
642 death of the settlor other than to the settlor's estate.

643 Section 18. Section 736.0404, Florida Statutes, is amended
644 to read:

645 736.0404 Trust purposes.—A trust may be created only to the
646 extent the purposes of the trust are lawful, not contrary to
647 public policy, and possible to achieve. ~~A trust and its terms~~
648 ~~must be for the benefit of its beneficiaries.~~

649 Section 19. Effective upon becoming a law, section



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650 736.04117, Florida Statutes, is amended to read:

651 736.04117 Trustee's power to invade principal in trust.—

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

653 (a) "Absolute power" means ~~Unless the trust instrument~~
654 ~~expressly provides otherwise, a trustee who has absolute power~~
655 ~~under the terms of a trust to invade the principal of the trust,~~
656 ~~referred to in this section as the "first trust," to make~~
657 ~~distributions to or for the benefit of one or more persons may~~
658 ~~instead exercise the power by appointing all or part of the~~
659 ~~principal of the trust subject to the power in favor of a~~
660 ~~trustee of another trust, referred to in this section as the~~
661 ~~"second trust," for the current benefit of one or more of such~~
662 ~~persons under the same trust instrument or under a different~~
663 ~~trust instrument; provided:~~

664 1. ~~The beneficiaries of the second trust may include only~~
665 ~~beneficiaries of the first trust;~~

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

669 3. ~~If any contribution to the first trust qualified for a~~
670 ~~marital or charitable deduction for federal income, gift, or~~
671 ~~estate tax purposes under the Internal Revenue Code of 1986, as~~
672 ~~amended, the second trust shall not contain any provision which,~~
673 ~~if included in the first trust, would have prevented the first~~
674 ~~trust from qualifying for such a deduction or would have reduced~~
675 ~~the amount of such deduction.~~

676 (b) ~~For purposes of this subsection, an absolute power to~~
677 ~~invade principal shall include a power to invade principal that~~
678 ~~is not limited to specific or ascertainable purposes, such as~~



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679 health, education, maintenance, and support, regardless of
680 whether ~~or not~~ the term "absolute" is used. A power to invade
681 principal for purposes such as best interests, welfare, comfort,
682 or happiness ~~constitutes~~ shall constitute an absolute power not
683 limited to specific or ascertainable purposes.

684 (b) "Authorized trustee" means a trustee, other than the
685 settlor or a beneficiary, who has the power to invade the
686 principal of a trust.

687 (c) "Beneficiary with a disability" means a beneficiary of
688 the first trust who the authorized trustee believes may qualify
689 for governmental benefits based on disability, regardless of
690 whether the beneficiary currently receives those benefits or has
691 been adjudicated incapacitated.

692 (d) "Current beneficiary" means a beneficiary who, on the
693 date his or her qualification is determined, is a distributee or
694 permissible distributee of trust income or principal. The term
695 includes the holder of a presently exercisable general power of
696 appointment but does not include a person who is a beneficiary
697 only because he or she holds another power of appointment.

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

700 (f) "Internal Revenue Code" means the Internal Revenue Code
701 of 1986, as amended.

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

704 (h) "Presently exercisable general power of appointment"
705 means a power of appointment exercisable by the powerholder at
706 the relevant time. The term:

707 1. Includes a power of appointment that is exercisable only



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708 after the occurrence of a specified event or that is subject to
709 a specified restriction, but only after the event has occurred
710 or the restriction has been satisfied.

711 2. Does not include a power exercisable only upon the
712 powerholder's death.

713 (i) "Substantially similar" means that there is no material
714 change in a beneficiary's beneficial interests or in the power
715 to make distributions and that the power to make a distribution
716 under a second trust for the benefit of a beneficiary who is an
717 individual is substantially similar to the power under the first
718 trust to make a distribution directly to the beneficiary. A
719 distribution is deemed to be for the benefit of a beneficiary
720 if:

721 1. The distribution is applied for the benefit of a
722 beneficiary;

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

726 3. The distribution is made as permitted under the terms of
727 the first trust instrument and the second trust instrument for
728 the benefit of the beneficiary.

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

733 (k) "Vested interest" means a current unconditional right
734 to receive a mandatory distribution of income, a specified
735 dollar amount, or a percentage of value of a trust, or a current
736 unconditional right to withdraw income, a specified dollar



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737 amount, or a percentage of value of a trust, which right is not
738 subject to the occurrence of a specified event, the passage of a
739 specified time, or the exercise of discretion.

740 1. The term includes a presently exercisable general power
741 of appointment.

742 2. The term does not include a beneficiary's interest in a
743 trust if the trustee has discretion to make a distribution of
744 trust property to a person other than such beneficiary.

745 (2) DISTRIBUTION FROM FIRST TRUST TO SECOND TRUST WHEN
746 AUTHORIZED TRUSTEE HAS ABSOLUTE POWER TO INVADE.-

747 (a) Unless a trust instrument expressly provides otherwise,
748 an authorized trustee who has absolute power under the terms of
749 the trust to invade its principal, referred to in this section
750 as the "first trust," to make current distributions to or for
751 the benefit of one or more beneficiaries may instead exercise
752 such power by appointing all or part of the principal of the
753 trust subject to such power in favor of a trustee of one or more
754 other trusts, whether created under the same trust instrument as
755 the first trust or a different trust instrument, including a
756 trust instrument created for the purposes of exercising the
757 power granted by this section, each referred to in this section
758 as the "second trust," for the current benefit of one or more of
759 such beneficiaries only if:

760 1. The beneficiaries of the second trust include only
761 beneficiaries of the first trust; and

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

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

764 1. Retain a power of appointment granted in the first
765 trust;



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

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

770 4. Create or modify a power of appointment if the
771 powerholder is a beneficiary of the first trust who is not a
772 current beneficiary, but the exercise of the power of
773 appointment may take effect only after the powerholder becomes,
774 or would have become if then living, a current beneficiary of
775 the first trust; and

776 5. Extend the term of the second trust beyond the term of
777 the first trust.

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

781 (3) DISTRIBUTION FROM FIRST TRUST TO SECOND TRUST WHEN
782 AUTHORIZED TRUSTEE DOES NOT HAVE ABSOLUTE POWER TO INVAD.—
783 Unless the trust instrument expressly provides otherwise, an
784 authorized trustee who has a power, other than an absolute
785 power, under the terms of a first trust to invade principal to
786 make current distributions to or for the benefit of one or more
787 beneficiaries may instead exercise such power by appointing all
788 or part of the principal of the first trust subject to such
789 power in favor of a trustee of one or more second trusts. If the
790 authorized trustee exercises such power:

791 (a) The second trusts, in the aggregate, shall grant each
792 beneficiary of the first trust beneficial interests in the
793 second trusts which are substantially similar to the beneficial
794 interests of the beneficiary in the first trust.



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795 (b) If the first trust grants a power of appointment to a
796 beneficiary of the first trust, the second trust shall grant
797 such power of appointment in the second trust to such
798 beneficiary, and the class of permissible appointees shall be
799 the same as in the first trust.

800 (c) If the first trust does not grant a power of
801 appointment to a beneficiary of the first trust, then the second
802 trust may not grant a power of appointment in the second trust
803 to such beneficiary.

804 (d) Notwithstanding paragraphs (a), (b), and (c), the term
805 of the second trust may extend beyond the term of the first
806 trust, and, for any period after the first trust would have
807 otherwise terminated, in whole or in part, under the provisions
808 of the first trust, the trust instrument of the second trust
809 may, with respect to property subject to such extended term:

810 1. Include language providing the trustee with the absolute
811 power to invade the principal of the second trust during such
812 extended term; and

813 2. Create a power of appointment, if the powerholder is a
814 current beneficiary of the first trust, or expand the class of
815 permissible appointees in favor of which a power of appointment
816 may be exercised.

817 (4) DISTRIBUTION FROM FIRST TRUST TO SUPPLEMENTAL NEEDS
818 TRUST.-

819 (a) Notwithstanding subsections (2) and (3), unless the
820 trust instrument expressly provides otherwise, an authorized
821 trustee who has the power under the terms of a first trust to
822 invade the principal of the first trust to make current
823 distributions to or for the benefit of a beneficiary with a



824 disability may instead exercise such power by appointing all or
825 part of the principal of the first trust in favor of a trustee
826 of a second trust that is a supplemental needs trust if:

827 1. The supplemental needs trust benefits the beneficiary
828 with a disability;

829 2. The beneficiaries of the second trust include only
830 beneficiaries of the first trust; and

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

833 (b) Except as affected by any change to the interests of
834 the beneficiary with a disability, the second trusts, in the
835 aggregate, shall grant each other beneficiary of the first trust
836 beneficial interests in the second trusts which are
837 substantially similar to such beneficiary's beneficial interests
838 in the first trust.

839 (5) PROHIBITED DISTRIBUTIONS.—

840 (a) An authorized trustee may not distribute the principal
841 of a trust under this section in a manner that would prevent a
842 contribution to that trust from qualifying for, or that would
843 reduce the exclusion, deduction, or other federal tax benefit
844 that was originally claimed or could have been claimed for, that
845 contribution, including:

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

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

850 3. A charitable deduction under s. 170(a), s. 642(c), s.
851 2055(a), or s. 2522(a) of the Internal Revenue Code;

852 4. Direct skip treatment under s. 2642(c) of the Internal



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853 Revenue Code; or

854 5. Any other tax benefit for income, gift, estate, or
855 generation-skipping transfer tax purposes under the Internal
856 Revenue Code.

857 (b) If S corporation stock is held in the first trust, an
858 authorized trustee may not distribute all or part of that stock
859 to a second trust that is not a permitted shareholder under s.
860 1361(c)(2) of the Internal Revenue Code. If the first trust
861 holds stock in an S corporation and is, or but for provisions of
862 paragraphs (a), (c), and (d) would be, a qualified subchapter S
863 trust within the meaning of s. 1361(d) of the Internal Revenue
864 Code, the second trust instrument may not include or omit a term
865 that prevents it from qualifying as a qualified subchapter S
866 trust.

867 (c) Except as provided in paragraphs (a), (b), and (d), an
868 authorized trustee may distribute the principal of a first trust
869 to a second trust regardless of whether the settlor is treated
870 as the owner of either trust under ss. 671-679 of the Internal
871 Revenue Code; however, if the settlor is not treated as the
872 owner of the first trust, he or she may not be treated as the
873 owner of the second trust unless he or she at all times has the
874 power to cause the second trust to cease being treated as if it
875 were owned by the settlor.

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



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882 (6) EXERCISE BY WRITING.—The exercise of a power to invade
883 principal under subsection (2), subsection (3), or subsection
884 (4) must ~~The exercise of a power to invade principal under~~
885 ~~subsection (1) shall be by a written an instrument in writing,~~
886 signed and acknowledged by the authorized trustee, and filed
887 with the records of the first trust.

888 (7) ~~(3)~~ RESTRICTIONS ON EXERCISE OF POWER.—The exercise of a
889 power to invade principal under subsection (2), subsection (3),
890 or subsection (4):

891 (a) Is ~~(1)~~ shall be considered the exercise of a power of
892 appointment, excluding other than a power to appoint to the
893 authorized trustee, the authorized trustee's creditors, the
894 authorized trustee's estate, or the creditors of the authorized
895 trustee's estate.

896 (b) Is, and Shall be subject to the provisions of s.
897 689.225 covering the time at which the permissible period of the
898 rule against perpetuities begins and the law that determines the
899 permissible period of the rule against perpetuities of the first
900 trust.

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

903 (d) May not:

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

906 2. Relieve the authorized trustee from liability for breach
907 of trust or provide for indemnification of the authorized
908 trustee for any liability or claim to a greater extent than the
909 first trust instrument; however, the exercise of the power may
910 divide and reallocate fiduciary powers among fiduciaries and



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911 relieve a fiduciary from liability for an act or failure to act
912 of another fiduciary as otherwise allowed under law or common
913 law.

914 (8) NOTICE.-

915 (a)(4) The authorized trustee shall provide written
916 notification of the manner in which he or she intends to
917 exercise his or her power to invade principal to notify all
918 qualified beneficiaries of the following parties first trust, in
919 writing, at least 60 days before prior to the effective date of
920 the authorized trustee's exercise of such power the trustee's
921 power to invade principal pursuant to subsection (2), subsection
922 (3), or subsection (4): (1), of the manner in which the trustee
923 intends to exercise the power.

924 1. All qualified beneficiaries of the first trust;

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

927 3. All trustees of the first trust; and

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

930 (b) The authorized A copy of the proposed instrument
931 exercising the power shall satisfy the trustee's notice
932 obligation to provide notice under this subsection is satisfied
933 when he or she provides copies of the proposed instrument
934 exercising the power, the trust instrument of the first trust,
935 and the proposed trust instrument of the second trust.

936 (c) If all of those required to be notified qualified
937 beneficiaries waive the notice period by signed written
938 instrument delivered to the authorized trustee, the authorized
939 trustee's power to invade principal shall be exercisable



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940 immediately.

941 (d) The authorized trustee's notice under this subsection
942 does shall not limit the right of any beneficiary to object to
943 the exercise of the authorized trustee's power to invade
944 principal except as otherwise provided in other applicable
945 provisions of this code.

946 (9) (5) INAPPLICABILITY OF SPENDTHRIFT CLAUSE OR OTHER
947 PROHIBITION.—The exercise of the power to invade principal under
948 subsection (2), subsection (3), or subsection (4) (1) is not
949 prohibited by a spendthrift clause or by a provision in the
950 trust instrument that prohibits amendment or revocation of the
951 trust.

952 (10) (6) NO DUTY TO EXERCISE.—Nothing in this section is
953 intended to create or imply a duty to exercise a power to invade
954 principal, and no inference of impropriety may shall be made as
955 a result of an authorized trustee's failure to exercise a
956 trustee not exercising the power to invade principal conferred
957 under subsections (2), (3), and (4) subsection (1).

958 (11) (7) NO ABRIDGEMENT OF COMMON LAW RIGHTS.—~~The provisions~~
959 ~~of~~ This section may shall not be construed to abridge the right
960 of any trustee who has a power of invasion to appoint property
961 in further trust that arises under the terms of the first trust
962 or under any other section of this code or under another
963 provision of law or under common law.

964 Section 20. Subsection (3) of section 736.08135, Florida
965 Statutes, is amended to read:

966 736.08135 Trust accountings.—

967 (3) Subsections (1) and (2) govern the form and content of
968 ~~This section applies to~~ all trust accountings rendered for any



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969 accounting periods beginning on or after January 1, 2003, and
970 all trust accountings rendered on or after July 1, 2017. This
971 subsection does not affect the beginning period from which a
972 trustee is required to render a trust accounting.

973 Section 21. Subsection (3) of section 736.1008, Florida
974 Statutes, is amended to read:

975 736.1008 Limitations on proceedings against trustees.—

976 (3) When a trustee has not issued a final trust accounting
977 or has not given written notice to the beneficiary of the
978 availability of the trust records for examination and that
979 claims with respect to matters not adequately disclosed may be
980 barred, a claim against the trustee for breach of trust based on
981 a matter not adequately disclosed in a trust disclosure document
982 is barred as provided in chapter 95 and accrues when the
983 beneficiary has actual knowledge of:

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

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

988
989 Paragraph (a) applies to claims based upon acts or omissions
990 occurring on or after July 1, 2008. A beneficiary's actual
991 knowledge that he or she has not received a trust accounting
992 does not cause a claim to accrue against the trustee for breach
993 of trust based upon the failure to provide a trust accounting
994 required by s. 736.0813 or former s. 737.303 and does not
995 commence the running of any period of limitations or laches for
996 such a claim, and paragraph (a) and chapter 95 do not bar any
997 such claim.



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998 Section 22. The changes to ss. 736.08135 and 736.1008,
999 Florida Statutes, made by this act are intended to clarify
1000 existing law, are remedial in nature, and apply retroactively to
1001 all cases pending or commenced on or after July 1, 2017.

1002 Section 23. Present subsections (2), (3), and (4) of
1003 section 736.1201, Florida Statutes, are redesignated as
1004 subsections (3), (4), and (5), respectively, present subsection
1005 (5) of that section is amended, and a new subsection (2) is
1006 added to that section, to read:

1007 736.1201 Definitions.—As used in this part:

1008 (2) "Delivery of notice" means delivery of a written notice
1009 required under this part using any commercial delivery service
1010 requiring a signed receipt or by any form of mail requiring a
1011 signed receipt.

1012 ~~(5) "State attorney" means the state attorney for the~~
1013 ~~judicial circuit of the principal place of administration of the~~
1014 ~~trust pursuant to s. 736.0108.~~

1015 Section 24. Section 736.1205, Florida Statutes, is amended
1016 to read:

1017 736.1205 Notice that this part does not apply.—In the case
1018 of a power to make distributions, if the trustee determines that
1019 the governing instrument contains provisions that are more
1020 restrictive than s. 736.1204(2), or if the trust contains other
1021 powers, inconsistent with the provisions of s. 736.1204(3) that
1022 specifically direct acts by the trustee, the trustee shall
1023 notify the ~~state~~ Attorney General by delivery of notice when the
1024 trust becomes subject to this part. Section 736.1204 does not
1025 apply to any trust for which notice has been given pursuant to
1026 this section unless the trust is amended to comply with the



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1027 terms of this part.

1028 Section 25. Sections 1 through 12 and section 17 of this
1029 act apply to electronic wills executed on or after July 1, 2017.

1030 Section 26. Subsection (2) of section 736.1206, Florida
1031 Statutes, is amended to read:

1032 736.1206 Power to amend trust instrument.—

1033 (2) In the case of a charitable trust that is not subject
1034 to ~~the provisions of~~ subsection (1), the trustee may amend the
1035 governing instrument to comply with ~~the provisions of~~ s.
1036 736.1204(2) after delivery of notice to, and with the consent
1037 of, the ~~state~~ Attorney General.

1038 Section 27. Section 736.1207, Florida Statutes, is amended
1039 to read:

1040 736.1207 Power of court to permit deviation.—This part does
1041 not affect the power of a court to relieve a trustee from any
1042 restrictions on the powers and duties that are placed on the
1043 trustee by the governing instrument or applicable law for cause
1044 shown and on complaint of the trustee, the ~~state~~ Attorney
1045 General, or an affected beneficiary and notice to the affected
1046 parties.

1047 Section 28. Paragraph (b) of subsection (4) of section
1048 736.1208, Florida Statutes, is amended to read:

1049 736.1208 Release; property and persons affected; manner of
1050 effecting.—

1051 (4) Delivery of a release shall be accomplished as follows:

1052 (b) If the release is accomplished by reducing the class of
1053 permissible charitable organizations, by delivery of notice a
1054 copy of the release to the ~~state~~ Attorney General, including a
1055 copy of the release.



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1056 Section 29. Section 736.1209, Florida Statutes, is amended
1057 to read:

1058 736.1209 Election to come under this part.—With the consent
1059 of that organization or organizations, a trustee of a trust for
1060 the benefit of a public charitable organization or organizations
1061 may come under s. 736.1208(5) by delivery of notice to filing
1062 ~~with the state~~ Attorney General of the an election, accompanied
1063 by the proof of required consent. Thereafter the trust shall be
1064 subject to s. 736.1208(5).

1065 Section 30. Except as otherwise provided in this act and
1066 except for this section, which shall take effect upon becoming a
1067 law, this act shall take effect July 1, 2017.

1068
1069 ===== T I T L E A M E N D M E N T =====

1070 And the title is amended as follows:

1071 Delete everything before the enacting clause
1072 and insert:

1073 A bill to be entitled
1074 An act relating to wills and trusts; amending s.
1075 731.201, F.S.; revising the definition of the term
1076 "will" to include electronic wills; amending s.
1077 732.506, F.S.; excluding electronic wills from
1078 specified methods to revoke a will; creating s.
1079 732.521, F.S.; providing a short title; creating s.
1080 732.522, F.S.; defining terms; creating s. 732.523,
1081 F.S.; specifying requirements that must be satisfied
1082 in the execution of electronic wills; creating s.
1083 732.524, F.S.; providing requirements for self-proof
1084 of electronic wills; creating s. 732.525, F.S.;



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1085 specifying the circumstances under which a person is
1086 deemed to be in the presence of or appearing before
1087 another person; providing that an electronic record
1088 satisfies the requirement that a record be in writing;
1089 providing that an electronic signature satisfies the
1090 requirement that a document be signed; providing
1091 requirements for certain documents to be deemed
1092 executed in this state; creating s. 732.526, F.S.;
1093 authorizing an electronic will of a nonresident of
1094 this state which is properly executed in this or
1095 another state to be offered for and admitted to
1096 probate in this state; providing the venue for the
1097 probate of such electronic will; creating s. 732.527,
1098 F.S.; specifying requirements for service as a
1099 qualified custodian; requiring qualified custodians to
1100 provide access to or information concerning the
1101 electronic will, or the electronic record containing
1102 the electronic will, only to specified persons or as
1103 directed by a court; authorizing a qualified custodian
1104 to destroy the electronic record of an electronic will
1105 after a certain date; providing conditions under which
1106 a qualified custodian may cease serving as a qualified
1107 custodian; requiring a qualified custodian to cease
1108 serving in such capacity upon the written request of
1109 the testator; requiring that a successor qualified
1110 custodian agree in writing to serve in that capacity
1111 for an electronic will before succeeding to office;
1112 specifying what constitutes an affidavit of a
1113 qualified custodian; requiring a qualified custodian



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1114 to deliver certain documents upon request from the
1115 testator; prohibiting a qualified custodian from
1116 charging the testator a fee for such documents under
1117 certain circumstances; providing that a qualified
1118 custodian is liable for certain damages under certain
1119 circumstances; prohibiting a qualified custodian from
1120 terminating or suspending access to, or downloads of,
1121 an electronic will by the testator; requiring a
1122 qualified custodian to deposit an electronic will with
1123 the court upon receiving information that the testator
1124 is dead; prohibiting a qualified custodian from
1125 charging a fee for certain actions taken upon the
1126 death of the testator; requiring a qualified custodian
1127 to keep certain information confidential; amending s.
1128 732.528, F.S.; requiring a qualified custodian to post
1129 and maintain a blanket surety bond, subject to certain
1130 requirements, or to maintain a certain liability
1131 insurance policy; authorizing the Attorney General to
1132 petition a court for the appointment of a receiver to
1133 manage certain records under certain conditions;
1134 amending s. 732.901, F.S.; providing that an
1135 electronic will that is filed electronically with the
1136 clerk is deemed to have been deposited as an original
1137 of the electronic will; amending s. 733.201, F.S.;
1138 providing for the proof of electronic wills; providing
1139 requirements for admitting an electronic will that is
1140 not self-proved into probate; providing that a paper
1141 copy of an electronic will constitutes an "original"
1142 of the electronic will subject to certain conditions;



1143 amending s. 736.0103, F.S.; redefining the term
1144 "interests of the beneficiaries"; amending s.
1145 736.0105, F.S.; deleting a requirement that a trust be
1146 for the benefit of the trust's beneficiaries; amending
1147 s. 736.0109, F.S.; revising provisions relating to
1148 notice or sending of electronic trust documents;
1149 providing requirements for such documents to be deemed
1150 sent; requiring a certain authorization to specify
1151 documents subject to electronic posting; revising
1152 requirements for a recipient to electronically access
1153 such documents; prohibiting the termination of a
1154 recipient's electronic access to such documents from
1155 invalidating certain notice or sending of electronic
1156 trust documents; tolling specified limitations periods
1157 under certain circumstances; providing requirements
1158 for electronic access to such documents to be deemed
1159 terminated by a sender; providing applicability;
1160 amending s. 736.0110, F.S.; providing that the
1161 Attorney General has standing to assert certain rights
1162 in certain proceedings; amending s. 736.0403, F.S.;
1163 providing that, for purposes of establishing the
1164 validity of the testamentary aspects of a revocable
1165 trust, the qualified custodian of the trust instrument
1166 may not also be a trustee of the trust; amending s.
1167 736.0404, F.S.; deleting a restriction on the purpose
1168 for which a trust is created; amending s. 736.04117,
1169 F.S.; defining and redefining terms; authorizing an
1170 authorized trustee to appoint all or part of the
1171 principal of a trust to a second trust under certain



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1172 circumstances; providing requirements for the second
1173 trust and its beneficiaries; providing that the second
1174 trust may retain, omit, or create specified powers;
1175 authorizing the term of the second trust to extend
1176 beyond the term of the first trust; providing
1177 requirements for distributions to a second trust when
1178 the authorized trustee does not have absolute power;
1179 providing requirements for such second trust;
1180 providing requirements for grants of power by the
1181 second trust; authorizing a second trust created by an
1182 authorized trustee without absolute power to grant
1183 absolute power to the second trust's trustee;
1184 authorizing an authorized trustee to appoint the
1185 principal of a first trust to a supplemental needs
1186 trust under certain circumstances; providing
1187 requirements for such supplemental needs trust;
1188 prohibiting an authorized trustee from distributing
1189 the principal of a trust in a manner that would reduce
1190 specified tax benefits; prohibiting the distribution
1191 of S corporation stock from a first trust to a second
1192 trust under certain circumstances; prohibiting a
1193 settlor from being treated as the owner of a second
1194 trust if he or she was not treated as the owner of the
1195 first trust; prohibiting an authorized trustee from
1196 distributing a trust's interest in property to a
1197 second trust if it is subject to specified rules of
1198 the Internal Revenue Code; prohibiting the exercise of
1199 power to invade a trust's principal to increase an
1200 authorized trustee's compensation or relieve him or



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1201 her from certain liability; specifying who an
1202 authorized trustee must notify when he or she
1203 exercises his or her power to invade the trust's
1204 principal; specifying the documents that the
1205 authorized trustee must provide with such notice;
1206 amending s. 736.08135, F.S.; revising applicability;
1207 amending s. 736.1008, F.S.; clarifying that certain
1208 knowledge by a beneficiary does not cause a claim to
1209 accrue for breach of trust or commence the running of
1210 a period of limitations or laches; providing
1211 legislative intent; providing for retroactive
1212 application; amending s. 736.1201, F.S.; defining the
1213 term "delivery of notice"; conforming a provision to
1214 changes made by the act; amending s. 736.1205, F.S.;
1215 requiring an authorized trustee to provide certain
1216 notice to the Attorney General rather than the state
1217 attorney; providing applicability; amending ss.
1218 736.1206, 736.1207, 736.1208, and 736.1209, F.S.;
1219 conforming provisions to changes made by the act;
1220 providing effective dates.