

By Senator Berman

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1 A bill to be entitled
2 An act relating to estates and trusts; amending s.
3 69.031, F.S.; requiring the court to allow an officer
4 to elect to post and maintain a certain bond;
5 requiring the court to vacate or terminate an order
6 under certain circumstances; making technical changes;
7 amending s. 732.507, F.S.; providing that certain
8 provisions of a will are void upon dissolution of
9 marriage; specifying when dissolution of marriage
10 occurs; providing applicability; amending s. 736.0103,
11 F.S.; defining terms; revising the definition of the
12 term "terms of a trust"; amending s. 736.0105, F.S.;
13 revising the exceptions for when the terms of a trust
14 do not prevail over provisions of the Florida Trust
15 Code; amending s. 736.0201, F.S.; authorizing certain
16 proceedings to determine the homestead status of real
17 property owned by a trust to be filed in the probate
18 proceeding for the settlor's estate; requiring that
19 such proceedings be governed by the Florida Probate
20 Rules; amending s. 736.0603, F.S.; transferring
21 provisions that authorize a trustee to follow certain
22 directions; amending s. 736.0703, F.S.; conforming
23 provisions to changes made by the act; repealing s.
24 736.0808, F.S., relating to powers to direct; amending
25 s. 736.1008, F.S.; specifying that certain claims
26 barred against a trustee or trust director are also
27 barred against certain persons acting for that
28 trustee; conforming provisions to changes made by the
29 act; amending s. 736.1017, F.S.; revising the

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30 information required to be included in a certification
31 of trust; amending s. 736.1105, F.S.; revising the
32 effects that subsequent marriages, births, adoptions,
33 or dissolutions of marriage have on a revocable trust;
34 providing construction; providing applicability;
35 creating s. 736.1109, F.S.; specifying how title
36 passes for certain devisees of homesteads which violate
37 the State Constitution; specifying that certain powers
38 do not subject an interest in a protected homestead to
39 certain claims; providing applicability; creating part
40 XIV of chapter 736, F.S., entitled the "Florida
41 Uniform Directed Trust Act"; creating s. 736.1401,
42 F.S.; providing a short title; creating s. 736.1403,
43 F.S.; providing applicability; providing for the
44 validity of certain terms in a directed trust which
45 designate principal places of administration; creating
46 s. 736.1405, F.S.; defining the term "power of
47 appointment"; providing applicability; specifying the
48 types of powers granted to persons other than
49 trustees; creating s. 736.1406, F.S.; authorizing the
50 terms of a trust to grant a power of direction to a
51 trust director; specifying the powers included in a
52 power of direction; creating s. 736.1407, F.S.;
53 providing for limitations on trust directors; creating
54 s. 736.1408, F.S.; providing duties and liabilities
55 for trust directors; creating s. 736.1409, F.S.;
56 providing duties and liabilities for directed
57 trustees; creating s. 736.141, F.S.; requiring a
58 trustee to provide certain information to a trust

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59 director; requiring a trust director to provide
60 certain information to a trustee or another trust
61 director and a qualified beneficiary; providing that a
62 trustee or a trust director acting in reliance on
63 certain information is not liable for a breach of
64 trust in certain circumstances; creating s. 736.1411,
65 F.S.; specifying that trustees and trust directors do
66 not have a duty to monitor, inform, or advise
67 specified persons under certain circumstances;
68 creating s. 736.1412, F.S.; transferring provisions
69 relating to the appointment of trustees; creating s.
70 736.1413, F.S.; providing limitations on actions
71 against trust directors; creating s. 736.1414, F.S.;
72 authorizing trust directors to assert specified
73 defenses in certain actions; creating s. 736.1415,
74 F.S.; specifying that a trust director submits to
75 specified personal jurisdiction by accepting
76 appointment as a trust director; providing
77 construction; creating s. 736.1416, F.S.; requiring
78 trust directors to be considered a trustee for certain
79 purposes; authorizing certain persons to make a
80 specified written demand to accept or confirm prior
81 acceptance of trust directorships; creating part XV of
82 chapter 736, F.S., entitled the "Community Property
83 Trust Act"; creating s. 736.1501, F.S.; providing a
84 short title; creating s. 736.1502, F.S.; defining
85 terms; creating s. 736.1503, F.S.; providing that an
86 arrangement is a community property trust in certain
87 circumstances; creating s. 736.1504, F.S.; authorizing

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88 settlor spouses to agree upon certain terms in an
89 agreement establishing a community property trust;
90 specifying when a community property trust may be
91 amended or revoked; specifying qualified beneficiaries
92 of community property trusts; creating s. 736.1505,
93 F.S.; providing that settlor spouses may classify any
94 property as community property by transferring that
95 property to a community property trust regardless of
96 domicile; providing for enforceability and duration of
97 a community property trust; providing that the right
98 to manage and control certain property is determined
99 by the terms of the trust agreement; providing the
100 effect of distributions from a community property
101 trust; creating s. 736.1506, F.S.; providing for the
102 satisfaction of obligations incurred by one or both
103 spouses from a community property trust; creating s.
104 736.1507, F.S.; providing for the disposition or
105 distribution of certain property upon the death of a
106 spouse; creating s. 736.1508, F.S.; providing for the
107 termination of a community property trust upon
108 dissolution of marriage; creating s. 736.1509, F.S.;
109 providing that a community property trust does not
110 adversely affect certain rights of a child; creating
111 s. 736.151, F.S.; providing that certain property held
112 in a community property trust qualifies as homestead
113 property; creating s. 736.1511, F.S.; providing for
114 the application of the Internal Revenue Code to a
115 community property trust; creating s. 736.1512, F.S.;
116 providing that a community property trust is not

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117 enforceable in certain circumstances; amending ss.
118 736.0802, 736.08125, and 738.104, F.S.; conforming
119 cross-references; amending s. 744.3679, F.S.;
120 conforming a provision to changes made by the act;
121 providing a directive to the Division of Law Revision;
122 providing for severability; providing effective dates.
123

124 Be It Enacted by the Legislature of the State of Florida:
125

126 Section 1. Effective upon this act becoming a law, section
127 69.031, Florida Statutes, is amended to read:

128 69.031 Designated financial institutions for property
129 ~~assets~~ in hands of guardians, curators, administrators,
130 trustees, receivers, or other officers.—

131 (1) When it is expedient in the judgment of any court
132 having jurisdiction of any estate in process of administration
133 by any guardian, curator, executor, administrator, trustee,
134 receiver, or other officer, because the size of the bond
135 required of the officer is burdensome or for other cause, the
136 court may order part or all of the personal property assets of
137 the estate placed with a bank, trust company, or savings and
138 loan association (which savings and loan association is a member
139 of the Federal Savings and Loan Insurance Corporation and doing
140 business in this state) designated by the court, consideration
141 being given to any bank, trust company or savings and loan
142 association proposed by the officer. Notwithstanding the
143 foregoing, in probate proceedings and in accordance with s.
144 733.402, the court shall allow the officer at any time to elect
145 to post and maintain bond for the value of the personal

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146 property, or such other reasonable amount determined by the
147 court, whereupon the court shall vacate or terminate any order
148 establishing the depository. When the property is ~~assets~~ are
149 placed with the designated financial institution, it shall file
150 a receipt therefor in the name of the estate and give the
151 officer a copy. Such receipt shall acknowledge the property
152 ~~assets~~ received by the financial institution. All interest,
153 dividends, principal and other debts collected by the financial
154 institution on account thereof shall be held by the financial
155 institution in safekeeping, subject to the instructions of the
156 officer authorized by order of the court directed to the
157 financial institution.

158 (2) Accountings shall be made to the officer at reasonably
159 frequent intervals. After the receipt for the original property
160 ~~assets~~ has been filed by the financial institution, the court
161 shall waive the bond given or to be given or reduce it so that
162 it shall apply only to the estate remaining in the hands of the
163 officer, whichever the court deems proper.

164 (3) When the court has ordered any property ~~assets~~ of an
165 estate to be placed with a designated financial institution, any
166 person or corporation having possession or control of any of the
167 property ~~assets~~, or owing interest, dividends, principal or
168 other debts on account thereof, shall pay and deliver such
169 property ~~assets~~, interest, dividends, principal and other debts
170 to the financial institution on its demand whether the officer
171 has duly qualified or not, and the receipt of the financial
172 institution relieves the person or corporation from further
173 responsibility therefor.

174 (4) Any bank, trust company, or savings and loan

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175 association which is designated under this section, may accept
176 or reject the designation in any instance, and shall file its
177 acceptance or rejection with the court making the designation
178 within 15 days after actual knowledge of the designation comes
179 to the attention of the financial institution, and if the
180 financial institution accepts, it shall be allowed a reasonable
181 amount for its services and expenses which the court may allow
182 as a charge against the property assets placed with the
183 financial institution.

184 Section 2. Effective upon this act becoming a law, section
185 732.507, Florida Statutes, is amended to read:

186 732.507 Effect of subsequent marriage, birth, adoption, or
187 dissolution of marriage.—

188 (1) Neither subsequent marriage, birth, nor adoption of
189 descendants shall revoke the prior will of any person, but the
190 pretermitted child or spouse shall inherit as set forth in ss.
191 732.301 and 732.302, regardless of the prior will.

192 (2) Any provision of a will ~~executed by a married person~~
193 that affects the testator's spouse ~~is of that person shall~~
194 ~~become~~ void upon dissolution of the marriage of the testator and
195 the spouse, whether the marriage occurred before or after the
196 execution of such will. Upon dissolution of marriage ~~the divorce~~
197 ~~of that person or upon the dissolution or annulment of the~~
198 ~~marriage. After the dissolution, divorce, or annulment, the will~~
199 ~~shall be administered and construed as if the former spouse had~~
200 ~~died at the time of the dissolution~~ of marriage, divorce, or
201 ~~annulment of the marriage, unless the will or the dissolution or~~
202 ~~divorce judgment expressly provides otherwise.~~

203 (a) Dissolution of marriage occurs at the time the

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204 decedent's marriage is judicially dissolved or declared invalid
205 by court order.

206 (b) This subsection does not invalidate a provision of a
207 will:

208 1. Executed by the testator after the dissolution of the
209 marriage;

210 2. If there is a specific intention to the contrary stated
211 in the will; or

212 3. If the dissolution of marriage judgment expressly
213 provides otherwise.

214 (3) This section applies to wills of decedents who die on
215 or after the effective date of this section.

216 Section 3. Present subsections (6) through (13), (14)
217 through (21), and (22) and (23) of section 736.0103, Florida
218 Statutes, are redesignated as subsections (8) through (15), (17)
219 through (24), and (26) and (27), respectively, new subsections
220 (6), (7), and (16) and subsection (25) are added to that
221 section, and present subsection (21) of that section is amended,
222 to read:

223 736.0103 Definitions.—Unless the context otherwise
224 requires, in this code:

225 (6) "Directed trust" means a trust for which the terms of
226 the trust grant a power of direction.

227 (7) "Directed trustee" means a trustee that is subject to a
228 trust director's power of direction.

229 (16) "Power of direction" means a power over a trust
230 granted to a person by the terms of the trust to the extent the
231 power is exercisable while the person is not serving as a
232 trustee. The term includes a power over the investment,

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233 management, or distribution of trust property, a power to amend
234 a trust instrument or terminate a trust, or a power over other
235 matters of trust administration. The term excludes the powers
236 listed in s. 736.1405(2).

237 (24) ~~(21)~~ "Terms of a trust" means:

238 (a) Except as otherwise provided in paragraph (b), the
239 manifestation of the settlor's intent regarding a trust's
240 provisions as:

241 1. Expressed in the trust instrument; or

242 2. Established by other evidence that would be admissible
243 in a judicial proceeding; or

244 (b) The trust's provisions as established, determined, or
245 amended by:

246 1. A trustee or trust director in accordance with
247 applicable law;

248 2. Court order; or

249 3. A nonjudicial settlement agreement under s. 736.0111 ~~the~~
250 manifestation of the settlor's intent regarding a trust's
251 provisions as expressed in the trust instrument or as may be
252 established by other evidence that would be admissible in a
253 judicial proceeding.

254 (25) "Trust director" means a person who is granted a power
255 of direction by the terms of a trust to the extent the power is
256 exercisable while the person is not serving as a trustee. The
257 person is a trust director whether or not the terms of the trust
258 refer to the person as a trust director and whether or not the
259 person is a beneficiary or settlor of the trust.

260 Section 4. Paragraph (b) of subsection (2) of section
261 736.0105, Florida Statutes, is amended to read:

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262 736.0105 Default and mandatory rules.—

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

265 (b) Subject to ss. 736.1409, 736.1411, and 736.1412, the
266 duty of the trustee to act in good faith and in accordance with
267 the terms and purposes of the trust and the interests of the
268 beneficiaries.

269 Section 5. Subsection (1) of section 736.0201, Florida
270 Statutes, is amended, and subsection (7) is added to that
271 section, to read:

272 736.0201 Role of court in trust proceedings.—

273 (1) Except as provided in subsections (5), ~~and~~ (6), and (7)
274 and s. 736.0206, judicial proceedings concerning trusts shall be
275 commenced by filing a complaint and shall be governed by the
276 Florida Rules of Civil Procedure.

277 (7) A proceeding to determine the homestead status of real
278 property owned by a trust may be filed in the probate proceeding
279 for the settlor's estate if the settlor was treated as the owner
280 of the interest held in the trust under s. 732.4015. The
281 proceeding shall be governed by the Florida Probate Rules.

282 Section 6. Subsection (3) is added to section 736.0603,
283 Florida Statutes, to read:

284 736.0603 Settlor's powers; powers of withdrawal.—

285 (3) Subject to ss. 736.0403(2) and 736.0602(3)(a), the
286 trustee may follow a direction of the settlor that is contrary
287 to the terms of the trust while a trust is revocable.

288 Section 7. Subsections (3), (7), and (9) of section
289 736.0703, Florida Statutes, are amended to read:

290 736.0703 Cotrustees.—

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291 (3) Subject to s. 736.1412, a cotrustee must participate in
292 the performance of a trustee's function unless the cotrustee is
293 unavailable to perform the function because of absence, illness,
294 disqualification under other provision of law, or other
295 temporary incapacity or the cotrustee has properly delegated the
296 performance of the function to another cotrustee.

297 (7) Except as otherwise provided in s. 736.1412 subsection
298 ~~(9)~~, each cotrustee shall exercise reasonable care to:

299 (a) Prevent a cotrustee from committing a breach of trust.

300 (b) Compel a cotrustee to redress a breach of trust.

301 ~~(9) If the terms of a trust provide for the appointment of~~
302 ~~more than one trustee but confer upon one or more of the~~
303 ~~trustees, to the exclusion of the others, the power to direct or~~
304 ~~prevent specified actions of the trustees, the excluded trustees~~
305 ~~shall act in accordance with the exercise of the power. Except~~
306 ~~in cases of willful misconduct on the part of the excluded~~
307 ~~trustee, an excluded trustee is not liable, individually or as a~~
308 ~~fiduciary, for any consequence that results from compliance with~~
309 ~~the exercise of the power. An excluded trustee does not have a~~
310 ~~duty or an obligation to review, inquire, investigate, or make~~
311 ~~recommendations or evaluations with respect to the exercise of~~
312 ~~the power. The trustee or trustees having the power to direct or~~
313 ~~prevent actions of the excluded trustees shall be liable to the~~
314 ~~beneficiaries with respect to the exercise of the power as if~~
315 ~~the excluded trustees were not in office and shall have the~~
316 ~~exclusive obligation to account to and to defend any action~~
317 ~~brought by the beneficiaries with respect to the exercise of the~~
318 ~~power. The provisions of s. 736.0808(2) do not apply if the~~
319 ~~person entrusted with the power to direct the actions of the~~

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320 ~~excluded trustee is also a cotrustee.~~

321 Section 8. Section 736.0808, Florida Statutes, is repealed.

322 Section 9. Present subsection (7) of section 736.1008,
323 Florida Statutes, is redesignated as subsection (8), a new
324 subsection (7) is added to that section, and paragraph (a) of
325 subsection (1), subsection (2), and paragraphs (a) and (c) of
326 subsection (4) of that section are amended, to read:

327 736.1008 Limitations on proceedings against trustees.—

328 (1) Except as provided in subsection (2), all claims by a
329 beneficiary against a trustee for breach of trust are barred as
330 provided in chapter 95 as to:

331 (a) All matters adequately disclosed in a trust disclosure
332 document issued by the trustee or a trust director, with the
333 limitations period beginning on the date of receipt of adequate
334 disclosure.

335 (2) Unless sooner barred by adjudication, consent, or
336 limitations, a beneficiary is barred from bringing an action
337 against a trustee for breach of trust with respect to a matter
338 that was adequately disclosed in a trust disclosure document
339 unless a proceeding to assert the claim is commenced within 6
340 months after receipt from the trustee or a trust director of the
341 trust disclosure document or a limitation notice that applies to
342 that disclosure document, whichever is received later.

343 (4) As used in this section, the term:

344 (a) "Trust disclosure document" means a trust accounting or
345 any other written report of the trustee or a trust director. A
346 trust disclosure document adequately discloses a matter if the
347 document provides sufficient information so that a beneficiary
348 knows of a claim or reasonably should have inquired into the

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349 existence of a claim with respect to that matter.

350 (c) "Limitation notice" means a written statement of the
351 trustee or a trust director that an action by a beneficiary
352 ~~against the trustee~~ for breach of trust based on any matter
353 adequately disclosed in a trust disclosure document may be
354 barred unless the action is commenced within 6 months after
355 receipt of the trust disclosure document or receipt of a
356 limitation notice that applies to that trust disclosure
357 document, whichever is later. A limitation notice may but is not
358 required to be in the following form: "An action for breach of
359 trust based on matters disclosed in a trust accounting or other
360 written report of the trustee or a trust director may be subject
361 to a 6-month statute of limitations from the receipt of the
362 trust accounting or other written report. If you have questions,
363 please consult your attorney."

364 (7) Any claim barred against a trustee or trust director
365 under this section is also barred against the directors,
366 officers, and employees acting for the trustee.

367 Section 10. Present paragraphs (e), (f), and (g) of
368 subsection (1) of section 736.1017, Florida Statutes, are
369 redesignated as paragraphs (f), (g), and (h), respectively, and
370 a new paragraph (e) is added to that subsection, to read:

371 736.1017 Certification of trust.—

372 (1) Instead of furnishing a copy of the trust instrument to
373 a person other than a beneficiary, the trustee may furnish to
374 the person a certification of trust containing the following
375 information:

376 (e) Whether the trust contains any powers of direction, and
377 if so, the identity of the current trust directors, the trustee

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378 powers subject to a power of direction, and whether the trust
379 directors have directed or authorized the trustee to engage in
380 the proposed transaction for which the certification of trust
381 was issued.

382 Section 11. Effective upon this act becoming a law, section
383 736.1105, Florida Statutes, is amended to read:

384 (Substantial rewording of section. See
385 s. 736.1105, F.S., for present text.)

386 736.1105 Effect of subsequent marriage, birth, adoption, or
387 dissolution of marriage.—

388 (1) Neither subsequent marriage, birth, nor adoption of
389 descendants shall revoke the revocable trust of any person.

390 (2) Any provision of a revocable trust that affects the
391 settlor's spouse is void upon dissolution of the marriage of the
392 settlor and the spouse, whether the marriage occurred before or
393 after the execution of such revocable trust. Upon dissolution of
394 marriage, the revocable trust shall be construed as if the
395 spouse had died at the time of the dissolution of marriage.

396 (a) Dissolution of marriage occurs at the time the
397 decendent's marriage is judicially dissolved or declared invalid
398 by court order.

399 (b) This subsection does not invalidate a provision of a
400 revocable trust:

401 1. Executed by the settlor after the dissolution of the
402 marriage;

403 2. If there is a specific intention to the contrary stated
404 in the revocable trust; or

405 3. If the dissolution of marriage judgment expressly
406 provides otherwise.

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407 (3) This section applies to revocable trusts of decedents
408 who die on or after the effective date of this section.

409 Section 12. Section 736.1109, Florida Statutes, is created
410 to read:

411 736.1109 Testamentary and revocable trusts; homestead
412 protections.—

413 (1) If a devise of homestead under a trust violates the
414 limitations on the devise of homestead in s. 4(c), Art. X of the
415 State Constitution, title shall pass as provided in s. 732.401
416 at the moment of death.

417 (2) A power of sale or general direction to pay debts,
418 expenses and claims within the trust instrument does not subject
419 an interest in the protected homestead to the claims of
420 decedent's creditors, expenses of administration, and
421 obligations of the decedent's estate as provided in s.
422 736.05053.

423 (3) If a trust directs the sale of property that would
424 otherwise qualify as protected homestead, and the property is
425 not subject to the constitutional limitations on the devise of
426 homestead under the State Constitution, title shall remain
427 vested in the trustee and subject to the provisions of the
428 trust.

429 (4) This section applies only to trusts described in s.
430 733.707(3) and to testamentary trusts.

431 (5) This section is intended to clarify existing law and
432 applies to the administration of trusts and estates of decedents
433 who die before, on, or after July 1, 2021.

434 Section 13. Part XIV of chapter 736, Florida Statutes,
435 consisting of ss. 736.1401-736.1416, Florida Statutes, is

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436 created and entitled the "Florida Uniform Directed Trust Act."

437 Section 14. Section 736.1401, Florida Statutes, is created
438 to read:

439 736.1401 Short title.—This part may be cited as the
440 "Florida Uniform Directed Trust Act."

441 Section 15. Section 736.1403, Florida Statutes, is created
442 to read:

443 736.1403 Application; principal place of administration.—

444 (1) This part applies to a trust subject to this chapter,
445 whenever created, that has its principal place of administration
446 in the state, subject to the following rules:

447 (a) If the trust was created before July 1, 2021, this part
448 applies only to a decision or action occurring on or after July
449 1, 2021.

450 (b) If the principal place of administration of the trust
451 is changed to the state on or after July 1, 2021, this part
452 applies only to a decision or action occurring on or after the
453 date of the change.

454 (2) In addition to the provisions of s. 736.0108, in a
455 directed trust, terms of the trust that designate the principal
456 place of administration of the trust in the state are valid and
457 controlling if a trust director's principal place of business is
458 located in or a trust director is a resident of the state.

459 Section 16. Section 736.1405, Florida Statutes, is created
460 to read:

461 736.1405 Exclusions.—

462 (1) As used in this section, the term "power of
463 appointment" means a power that enables a person acting in a
464 nonfiduciary capacity to designate a recipient of an ownership

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465 interest in or another power of appointment over trust property.

466 (2) Unless the terms of a trust expressly provide otherwise
467 by specific reference to this part, section, or paragraph, this
468 part does not apply to:

469 (a) A power of appointment;

470 (b) A power to appoint or remove a trustee or trust
471 director;

472 (c) A power of a settlor over a trust while the trust is
473 revocable by that settlor;

474 (d) A power of a beneficiary over a trust to the extent the
475 exercise or nonexercise of the power affects the beneficial
476 interest of:

477 1. The beneficiary; or

478 2. Another beneficiary represented by the beneficiary under
479 ss. 736.0301-736.0305 with respect to the exercise or
480 nonexercise of the power;

481 (e) A power over a trust if the terms of the trust provide
482 that the power is held in a nonfiduciary capacity; and

483 1. The power must be held in a nonfiduciary capacity to
484 achieve the settlor's tax objectives under the United States
485 Internal Revenue Code of 1986, as amended, and regulations
486 issued thereunder, as amended; or

487 2. It is a power to reimburse the settlor for all or a part
488 of the settlor's income tax liabilities attributable to the
489 income of the trust; or

490 (f) A power to add or to release a power under the trust
491 instrument if the power subject to addition or release causes
492 the settlor to be treated as the owner of all or any portion of
493 the trust for federal income tax purposes.

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494 (3) Unless the terms of a trust provide otherwise, a power
495 granted to a person other than a trustee:

496 (a) To designate a recipient of an ownership interest in
497 trust property, including a power to terminate a trust, is a
498 power of appointment and not a power of direction.

499 (b) To create, modify, or terminate a power of appointment
500 is a power of direction and not a power of appointment, except a
501 power to create a power of appointment that is an element of a
502 broader power to affect an ownership interest in trust property
503 beyond the mere creation of a power of appointment, such as a
504 power to appoint trust property in further trust, is a power of
505 appointment and not a power of direction.

506 Section 17. Section 736.1406, Florida Statutes, is created
507 to read:

508 736.1406 Power of trust director.-

509 (1) Subject to s. 736.1407, the terms of a trust may grant
510 a power of direction to a trust director.

511 (2) A power of direction includes only those powers granted
512 by the terms of the trust.

513 (3) Unless the terms of a trust provide otherwise:

514 (a) A trust director may exercise any further power
515 appropriate to the exercise or nonexercise of a power of
516 direction granted to the trust director under subsection (1);

517 and

518 (b) Trust directors with joint powers must act by majority
519 decision.

520 Section 18. Section 736.1407, Florida Statutes, is created
521 to read:

522 736.1407 Limitations on trust director.-A trust director is

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523 subject to the same rules as a trustee in a like position and
524 under similar circumstances in the exercise or nonexercise of a
525 power of direction or further power under s. 736.1406(3) (a)
526 regarding:

527 (1) A payback provision in the terms of a trust necessary
528 to comply with the reimbursement requirements of s. 1917 of the
529 Social Security Act, 42 U.S.C. s. 1396p(d) (4) (A), as amended,
530 and regulations issued thereunder, as amended.

531 (2) A charitable interest in the trust, including notice
532 regarding the interest to the Attorney General.

533 Section 19. Section 736.1408, Florida Statutes, is created
534 to read:

535 736.1408 Duty and liability of trust director.—

536 (1) Subject to subsection (2), with respect to a power of
537 direction or further power under s. 736.1406(3) (a):

538 (a) A trust director has the same fiduciary duty and
539 liability in the exercise or nonexercise of the power:

540 1. If the power is held individually, as a sole trustee in
541 a like position and under similar circumstances; or

542 2. If the power is held jointly with a trustee or another
543 trust director, as a cotrustee in a like position and under
544 similar circumstances.

545 (b) The terms of the trust may vary the trust director's
546 duty or liability to the same extent the terms of the trust may
547 vary the duty or liability of a trustee in a like position and
548 under similar circumstances.

549 (2) Unless the terms of a trust provide otherwise, if a
550 trust director is licensed, certified, or otherwise authorized
551 or permitted by law other than this part to provide health care

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552 in the ordinary course of the trust director's business or
553 practice of a profession, to the extent the trust director acts
554 in that capacity the trust director has no duty or liability
555 under this part.

556 (3) The terms of a trust may impose a duty or liability on
557 a trust director in addition to the duties and liabilities under
558 this section.

559 Section 20. Section 736.1409, Florida Statutes, is created
560 to read:

561 736.1409 Duty and liability of directed trustee.-

562 (1) Subject to subsection (2), a directed trustee shall
563 take reasonable action to comply with a trust director's
564 exercise or nonexercise of a power of direction or further power
565 under s. 736.1406(3) (a) and the trustee is not liable for such
566 reasonable action.

567 (2) A directed trustee may not comply with a trust
568 director's exercise or nonexercise of a power of direction or
569 further power under s. 736.1406(3) (a) to the extent that by
570 complying the trustee would engage in willful misconduct.

571 (3) Before complying with a trust director's exercise of a
572 power of direction, the directed trustee shall determine whether
573 or not the exercise is within the scope of the trust director's
574 power of direction. The exercise of a power of direction is not
575 outside the scope of a trust director's power of direction
576 merely because the exercise constitutes or may constitute a
577 breach of trust.

578 (4) An exercise of a power of direction under which a trust
579 director may release a trustee or another trust director from
580 liability for breach of trust is not effective if:

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581 (a) The breach involved the trustee's or other director's
582 willful misconduct;

583 (b) The release was induced by improper conduct of the
584 trustee or other director in procuring the release; or

585 (c) At the time of the release, the trust director did not
586 know the material facts relating to the breach.

587 (5) A directed trustee that has reasonable doubt about its
588 duty under this section may apply to the court for instructions,
589 with attorney fees and costs to be paid from assets of the trust
590 as provided in this code.

591 (6) The terms of a trust may impose a duty or liability on
592 a directed trustee in addition to the duties and liabilities
593 under this part.

594 Section 21. Section 736.141, Florida Statutes, is created
595 to read:

596 736.141 Duty to provide information.-

597 (1) Subject to s. 736.1411, a trustee shall provide
598 information to a trust director to the extent the information is
599 reasonably related to the powers or duties of the trust
600 director.

601 (2) Subject to s. 736.1411, a trust director shall provide
602 information to a trustee or another trust director to the extent
603 the information is reasonably related to the powers or duties of
604 the trustee or other trust director.

605 (3) A trustee that acts in reliance on information provided
606 by a trust director is not liable for a breach of trust to the
607 extent the breach resulted from the reliance, unless by so
608 acting the trustee engages in willful misconduct.

609 (4) A trust director that acts in reliance on information

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610 provided by a trustee or another trust director is not liable
611 for a breach of trust to the extent the breach resulted from the
612 reliance, unless by so acting the trust director engages in
613 willful misconduct.

614 (5) A trust director shall provide information within the
615 trust director's knowledge or control to a qualified beneficiary
616 upon a written request of a qualified beneficiary to the extent
617 the information is reasonably related to the powers or duties of
618 the trust director.

619 Section 22. Section 736.1411, Florida Statutes, is created
620 to read:

621 736.1411 No duty to monitor, inform, or advise.—

622 (1) Notwithstanding s. 736.1409(1), unless the terms of a
623 trust provide otherwise:

624 (a) A trustee does not have a duty to:

625 1. Monitor a trust director; or

626 2. Inform or give advice to a settlor, beneficiary,
627 trustee, or trust director concerning an instance in which the
628 trustee might have acted differently than the trust director.

629 (b) By taking an action described in paragraph (a), a
630 trustee does not assume the duty excluded by paragraph (a).

631 (2) Notwithstanding s. 736.1408(1), unless the terms of a
632 trust provide otherwise:

633 (a) A trust director does not have a duty to:

634 1. Monitor a trustee or another trust director; or

635 2. Inform or give advice to a settlor, beneficiary,
636 trustee, or another trust director concerning an instance in
637 which the trust director might have acted differently than a
638 trustee or another trust director.

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639 (b) By taking an action described in paragraph (a), a trust
640 director does not assume the duty excluded by paragraph (a).

641 Section 23. Section 736.1412, Florida Statutes, is created
642 to read:

643 736.1412 Application to cotrustee.—

644 (1) The terms of a trust may provide for the appointment of
645 more than one trustee but confer upon one or more of the
646 trustees, to the exclusion of the others, the power to direct or
647 prevent specified actions of the trustees.

648 (2) The excluded trustees shall act in accordance with the
649 exercise of the power in the manner, and with the same duty and
650 liability, as directed trustees with respect to a trust
651 director's power of direction under ss. 736.1409, 736.141, and
652 736.1411.

653 (3) The trustee or trustees having the power to direct or
654 prevent actions of the excluded trustees shall be liable to the
655 beneficiaries with respect to the exercise of the power as if
656 the excluded trustees were not in office and shall have the
657 exclusive obligation to account to and to defend any action
658 brought by the beneficiaries with respect to the exercise of the
659 power.

660 Section 24. Section 736.1413, Florida Statutes, is created
661 to read:

662 736.1413 Limitation of action against trust director.—

663 (1) An action against a trust director for breach of trust
664 must be commenced within the same limitation period as under s.
665 736.1008 in an action for breach of trust against a trustee in a
666 like position and under similar circumstances.

667 (2) A trust accounting or any other written report of a

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668 trustee or a trust director has the same effect on the
669 limitation period for an action against a trust director for
670 breach of trust that such trust accounting or written report
671 would have under s. 736.1008 in an action for breach of trust
672 against a trustee in a like position and under similar
673 circumstances.

674 Section 25. Section 736.1414, Florida Statutes, is created
675 to read:

676 736.1414 Defenses in action against trust director.—In an
677 action against a trust director for breach of trust, the trust
678 director may assert the same defenses a trustee in a like
679 position and under similar circumstances could assert in an
680 action for breach of trust against the trustee.

681 Section 26. Section 736.1415, Florida Statutes, is created
682 to read:

683 736.1415 Jurisdiction over trust director.—

684 (1) By accepting appointment as a trust director of a trust
685 subject to this part, the trust director submits to the personal
686 jurisdiction of the courts of the state regarding any matter
687 related to a power or duty of the trust director.

688 (2) This section does not preclude other methods of
689 obtaining jurisdiction over a trust director.

690 Section 27. Section 736.1416, Florida Statutes, is created
691 to read:

692 736.1416 Office of trust director.—

693 (1) Unless the terms of a trust provide otherwise, a trust
694 director shall be considered a trustee for purposes of the
695 following:

696 (a) Role of court under s. 736.0201.

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697 (b) Proceedings for review of employment of agents and
698 review of compensation of trustee and employees of a trust under
699 s. 736.0206.

700 (c) Representation by holder of power of appointment under
701 s. 736.0302(4).

702 (d) Designated representative under s. 736.0306(2).

703 (e) Requirements for creation of a trust under s.
704 736.0402(3).

705 (f) As to allowing application by the trust director for
706 judicial modification, construction, or termination under s.
707 736.04113, s. 736.04114, s. 736.04115, or s. 736.0414(2) if the
708 trust director is so authorized by the terms of the trust.

709 (g) Discretionary trusts and the effect of a standard under
710 s. 736.0504.

711 (h) Creditors' claims against settlor under s.
712 736.0505(1)(c).

713 (i) Trustee's duty to pay expenses and obligations of a
714 settlor's estate under s. 736.05053(4).

715 (j) Acceptance or declination under s. 736.0701.

716 (k) Giving of bond to secure performance under s. 736.0702.

717 (l) Vacancy and appointment of successor under s. 736.0704.

718 (m) Resignation under s. 736.0705.

719 (n) Removal under s. 736.0706, but not to give the trust
720 director the power to request removal of a trustee.

721 (o) Reasonable compensation under s. 736.0708.

722 (p) Reimbursement of expenses under s. 736.0709.

723 (q) Payment of costs or attorney fees under s. 736.0802(10)
724 if the trust director has a power of direction or, if the trust
725 director has a further power to direct, the payment of such

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726 costs or attorney fees under s. 736.1406(2) or (3) (a).
727 (r) Discretionary power and tax savings provisions under s.
728 736.0814.
729 (s) Administration pending outcome of contest or other
730 proceeding under s. 736.08165.
731 (t) Applicability of chapter 518 under s. 736.0901.
732 (u) Nonapplication of prudent investor rule under s.
733 736.0902.
734 (v) Remedies for breach of trust under s. 736.1001.
735 (w) Damages for breach of trust under s. 736.1002.
736 (x) Damages in absence of breach under s. 736.1003.
737 (y) Attorney fees and costs under s. 736.1004.
738 (z) Trustee's attorney fees under s. 736.1007(5), (6), and
739 (7).
740 (aa) Reliance on a trust instrument under s. 736.1009.
741 (bb) Events affecting administration under s. 736.1010.
742 (cc) Exculpation under s. 736.1011.
743 (dd) Beneficiary's consent, release, or ratification under
744 s. 736.1012.
745 (ee) Limitations on actions against certain trusts under s.
746 736.1014.
747 (2) If a person has not accepted a trust directorship under
748 the terms of the trust or under s. 736.0701 or a trustee,
749 settlor, or a qualified beneficiary of the trust is uncertain
750 whether such acceptance has occurred, a trustee, settlor, or a
751 qualified beneficiary of the trust may make a written demand on
752 a person designated to serve as a trust director, with a written
753 copy to the trustees, to accept or confirm prior acceptance of
754 the trust directorship in writing. A written acceptance, written

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755 acknowledgment of prior acceptance, or written declination of
756 the trust directorship shall be delivered by the designated
757 trust director within 60 days after receipt of such demand to
758 all trustees, qualified beneficiaries, and the settlor if
759 living.

760 Section 28. Part XV of chapter 736, Florida Statutes,
761 consisting of ss. 736.1501-736.1512, Florida Statutes, is
762 created and entitled the "Community Property Trust Act."

763 Section 29. Section 736.1501, Florida Statutes, is created
764 to read:

765 736.1501 Short title.—This part may be cited as the
766 "Community Property Trust Act."

767 Section 30. Section 736.1502, Florida Statutes, is created
768 to read:

769 736.1502 Definitions.—Unless the context otherwise
770 requires, as used in this part:

771 (1) "Community property" means the property and the
772 appreciation of and income from the property owned by a
773 qualified trustee of a community property trust during the
774 marriage of the settlor spouses. The property owned by a
775 community property trust pursuant to this part and the
776 appreciation of and income from such property shall be deemed to
777 be community property for purposes of general law.

778 (2) "Community property trust" means an express trust that
779 complies with s. 736.1503 and is created on or after July 1,
780 2021.

781 (3) "Decree" means a judgment or other order of a court of
782 competent jurisdiction.

783 (4) "Dissolution" means either:

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784 (a) Termination of a marriage by a decree of dissolution,
785 divorce, annulment, or declaration of invalidity; or

786 (b) Entry of a decree of legal separation maintenance.

787 (5) "During marriage" means a period that begins at
788 marriage and ends upon the dissolution of marriage or upon the
789 death of a spouse.

790 (6) "Qualified trustee" means either:

791 (a) A natural person who is a resident of the state; or

792 (b) A company authorized to act as a trustee in the state.

793

794 A qualified trustee's powers include, but are not limited to,
795 maintaining records for the trust on an exclusive or a
796 nonexclusive basis and preparing or arranging for the
797 preparation of, on an exclusive or a nonexclusive basis, any
798 income tax returns that must be filed by the trust.

799 (7) "Settlor spouses" means a married couple who
800 establishes a community property trust pursuant to this part.

801 Section 31. Section 736.1503, Florida Statutes, is created
802 to read:

803 736.1503 Requirements for community property trust.—An
804 arrangement is a community property trust if one or both settlor
805 spouses transfer property to a trust that:

806 (1) Expressly declares that the trust is a community
807 property trust within the meaning of this part.

808 (2) Has at least one trustee who is a qualified trustee,
809 provided that both spouses or either spouse also may be a
810 trustee.

811 (3) Is signed by both settlor spouses consistent with the
812 formalities required for the execution of a trust under this

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813 chapter.

814 (4) Contains substantially the following language in
 815 capital letters at the beginning of the community property trust
 816 agreement:

817
 818 THE CONSEQUENCES OF THIS COMMUNITY PROPERTY TRUST MAY
 819 BE VERY EXTENSIVE, INCLUDING, BUT NOT LIMITED TO, YOUR
 820 RIGHTS WITH RESPECT TO CREDITORS AND OTHER THIRD
 821 PARTIES, AND YOUR RIGHTS WITH YOUR SPOUSE DURING THE
 822 COURSE OF YOUR MARRIAGE, AT THE TIME OF A DIVORCE, AND
 823 UPON THE DEATH OF YOU OR YOUR SPOUSE. ACCORDINGLY,
 824 THIS TRUST AGREEMENT SHOULD BE SIGNED ONLY AFTER
 825 CAREFUL CONSIDERATION. IF YOU HAVE ANY QUESTIONS ABOUT
 826 THIS TRUST AGREEMENT, YOU SHOULD SEEK COMPETENT AND
 827 INDEPENDENT LEGAL ADVICE.

828
 829 Section 32. Section 736.1504, Florida Statutes, is created
 830 to read:

831 736.1504 Agreement establishing community property trust;
 832 amendments and revocation.-

833 (1) In the agreement establishing a community property
 834 trust, the settlor spouses may agree upon:

835 (a) The rights and obligations in the property transferred
 836 to the trust, notwithstanding when and where the property is
 837 acquired or located.

838 (b) The management and control of the property transferred
 839 into the trust.

840 (c) The disposition of the property transferred to the
 841 trust on dissolution, death, or the occurrence or nonoccurrence

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842 of another event, subject to ss. 736.1507 and 736.1508.

843 (d) Whether the trust is revocable or irrevocable.

844 (e) Any other matter that affects the property transferred
845 to the trust and does not violate public policy or general law
846 imposing a criminal penalty, or result in the property not being
847 treated as community property under the laws of any
848 jurisdiction.

849 (2) In the event of the death of a settlor spouse, the
850 surviving spouse may amend a community property trust regarding
851 the disposition of that spouse's one-half share of the community
852 property, regardless of whether the agreement provides that the
853 community property trust is irrevocable.

854 (3) A community property trust may be amended or revoked by
855 the settlor spouses unless the agreement itself specifically
856 provides that the community property trust is irrevocable.

857 (4) Notwithstanding any other provision of this code, the
858 settlor spouses shall be deemed to be the only qualified
859 beneficiaries of a community property trust until the death of
860 one of the settlor spouses, regardless of whether the trust is
861 revocable or irrevocable. After the death of one of the settlor
862 spouses, the surviving spouse shall be deemed to be the only
863 qualified beneficiary as to his or her share of the community
864 property trust.

865 Section 33. Section 736.1505, Florida Statutes, is created
866 to read:

867 736.1505 Classification of property as community property;
868 enforcement; duration; management and control; effect of
869 distributions.—

870 (1) Whether both, one, or neither is domiciled in the

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871 state, settlor spouses may classify any or all of their property
872 as community property by transferring that property to a
873 community property trust and providing in the trust that the
874 property is community property pursuant to this part.

875 (2) A community property trust is enforceable without
876 consideration.

877 (3) All property owned by a community property trust is
878 community property under the laws of the state during the
879 marriage of the settlor spouses.

880 (4) The right to manage and control property that is
881 transferred to a community property trust is determined by the
882 terms of the trust agreement.

883 (5) When property is distributed from a community property
884 trust, the property shall no longer constitute community
885 property within the meaning of this part, provided that
886 community property as classified by a jurisdiction other than
887 the state retains its character as community property to the
888 extent otherwise provided by ss. 732.216-732.228.

889 Section 34. Section 736.1506, Florida Statutes, is created
890 to read:

891 736.1506 Satisfaction of obligations.—Except as provided in
892 s. 4, Art. X of the State Constitution:

893 (1) An obligation incurred by only one spouse before or
894 during the marriage may be satisfied from that spouse's one-half
895 share of a community property trust.

896 (2) An obligation incurred by both spouses during the
897 marriage may be satisfied from a community property trust of the
898 settlor spouses.

899 Section 35. Section 736.1507, Florida Statutes, is created

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900 to read:

901 736.1507 Death of a spouse.—Upon the death of a spouse,
902 one-half of the aggregate value of the property held in a
903 community property trust established by the settlor spouses
904 reflects the share of the surviving spouse and is not subject to
905 testamentary disposition by the decedent spouse or distribution
906 under the laws of succession of the state. The other one-half of
907 the value of that property reflects the share of the decedent
908 spouse and is subject to testamentary disposition or
909 distribution under the laws of succession of the state. Unless
910 provided otherwise in the community property trust agreement,
911 the trustee has the power to distribute assets of the trust in
912 divided or undivided interests and to adjust resulting
913 differences in valuation. A distribution in kind may be made on
914 the basis of a non-pro rata division of the aggregate value of
915 the trust assets, on the basis of a pro rata division of each
916 individual asset, or by using both methods. The decedent's
917 spouse's one-half share shall not be included in the elective
918 estate.

919 Section 36. Section 736.1508, Florida Statutes, is created
920 to read:

921 736.1508 Dissolution of marriage.—Upon the dissolution of
922 the marriage of the settlor spouses, the community property
923 trust shall terminate and the trustee shall distribute one-half
924 of the trust assets to each spouse, with each spouse receiving
925 one-half of each asset, unless otherwise agreed to in writing by
926 both spouses. For purposes of this act, s. 61.075 does not apply
927 to the disposition of the assets and liabilities held in a
928 community property trust.

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929 Section 37. Section 736.1509, Florida Statutes, is created
930 to read:

931 736.1509 Right of child to support.—A community property
932 trust does not adversely affect the right of a child of the
933 settlor spouses to support that either spouse would be required
934 to give under the applicable laws of the settlor spouses' state
935 of domicile.

936 Section 38. Section 736.151, Florida Statutes, is created
937 to read:

938 736.151 Homestead property.—

939 (1) Property that is transferred to or acquired subject to
940 a community property trust may continue to qualify or may
941 initially qualify as the settlor spouses' homestead within the
942 meaning of s. 4(a)(1), Art. X of the State Constitution and for
943 all purposes of general law, provided that the property would
944 qualify as the settlor spouses' homestead if title was held in
945 one or both of the settlor spouses' individual names.

946 (2) The settlor spouses shall be deemed to have beneficial
947 title in equity to the homestead property held subject to a
948 community property trust for all purposes, including for
949 purposes of s. 196.031.

950 Section 39. Section 736.1511, Florida Statutes, is created
951 to read:

952 736.1511 Application of Internal Revenue Code; community
953 property classified by another jurisdiction.—For purposes of the
954 application of s. 1014(b)(6) of the Internal Revenue Code of
955 1986, 26 U.S.C. s. 1014(b)(6), as of January 1, 2021, a
956 community property trust is considered a trust established under
957 the community property laws of the state. Community property, as

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958 classified by a jurisdiction other than this state, which is
959 transferred to a community property trust retains its character
960 as community property while in the trust. If the trust is
961 revoked and property is transferred on revocation of the trust,
962 the community property as classified by a jurisdiction other
963 than the state retains its character as community property to
964 the extent otherwise provided by ss. 732.216-732.228.

965 Section 40. Section 736.1512, Florida Statutes, is created
966 to read:

967 736.1512 Unenforceable trusts.—

968 (1) A community property trust executed during marriage is
969 not enforceable if the spouse against whom enforcement is sought
970 proves that:

971 (a) The trust was unconscionable when made;

972 (b) The spouse against whom enforcement is sought did not
973 execute the community property trust agreement voluntarily; or

974 (c) Before execution of the community property trust
975 agreement, the spouse against whom enforcement is sought:

976 1. Was not given a fair and reasonable disclosure of the
977 property and financial obligations of the other spouse.

978 2. Did not voluntarily sign a written waiver expressly
979 waiving right to disclosure of the property and financial
980 obligations of the other spouse beyond the disclosure provided.

981 3. Did not have notice of the property or financial
982 obligations of the other spouse.

983 (2) Whether a community property trust is unconscionable
984 shall be determined by a court as a matter of law.

985 (3) A community property trust may not be deemed
986 unenforceable because the settlor spouses did not have separate

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987 legal representation when executing the trust.

988 Section 41. Paragraph (f) of subsection (5) of section
989 736.0802, Florida Statutes, is amended to read:

990 736.0802 Duty of loyalty.—

991 (5)

992 (f)1. The trustee of a trust as defined in s. 731.201 may
993 request authority to invest in investment instruments described
994 in this subsection other than a qualified investment instrument,
995 by providing to all qualified beneficiaries a written request
996 containing the following:

997 a. The name, telephone number, street address, and mailing
998 address of the trustee and of any individuals who may be
999 contacted for further information.

1000 b. A statement that the investment or investments cannot be
1001 made without the consent of a majority of each class of the
1002 qualified beneficiaries.

1003 c. A statement that, if a majority of each class of
1004 qualified beneficiaries consent, the trustee will have the right
1005 to make investments in investment instruments, as defined in s.
1006 660.25(6), which are owned or controlled by the trustee or its
1007 affiliate, or from which the trustee or its affiliate receives
1008 compensation for providing services in a capacity other than as
1009 trustee, that such investment instruments may include investment
1010 instruments sold primarily to trust accounts, and that the
1011 trustee or its affiliate may receive fees in addition to the
1012 trustee's compensation for administering the trust.

1013 d. A statement that the consent may be withdrawn
1014 prospectively at any time by written notice given by a majority
1015 of any class of the qualified beneficiaries.

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A statement by the trustee is not delivered if the statement is accompanied by another written communication other than a written communication by the trustee that refers only to the statement.

2. For purposes of paragraph (e) and this paragraph:

a. "Majority of the qualified beneficiaries" means:

(I) If at the time the determination is made there are one or more beneficiaries as described in s. 736.0103(19)(c) ~~s. 736.0103(16)(e)~~, at least a majority in interest of the beneficiaries described in s. 736.0103(19)(a) ~~s. 736.0103(16)(a)~~, at least a majority in interest of the beneficiaries described in s. 736.0103(19)(b) ~~s. 736.0103(16)(b)~~, and at least a majority in interest of the beneficiaries described in s. 736.0103(19)(c) ~~s. 736.0103(16)(e)~~, if the interests of the beneficiaries are reasonably ascertainable; otherwise, a majority in number of each such class; or

(II) If there is no beneficiary as described in s. 736.0103(19)(c) ~~s. 736.0103(16)(e)~~, at least a majority in interest of the beneficiaries described in s. 736.0103(19)(a) ~~s. 736.0103(16)(a)~~ and at least a majority in interest of the beneficiaries described in s. 736.0103(19)(b) ~~s. 736.0103(16)(b)~~, if the interests of the beneficiaries are reasonably ascertainable; otherwise, a majority in number of each such class.

b. "Qualified investment instrument" means a mutual fund, common trust fund, or money market fund described in and governed by s. 736.0816(3).

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1045 c. An irrevocable trust is created upon execution of the
1046 trust instrument. If a trust that was revocable when created
1047 thereafter becomes irrevocable, the irrevocable trust is created
1048 when the right of revocation terminates.

1049 Section 42. Paragraph (a) of subsection (2) of section
1050 736.08125, Florida Statutes, is amended to read:

1051 736.08125 Protection of successor trustees.—

1052 (2) For the purposes of this section, the term:

1053 (a) "Eligible beneficiaries" means:

1054 1. At the time the determination is made, if there are one
1055 or more beneficiaries as described in s. 736.0103(19)(c) s.
1056 ~~736.0103(16)(e)~~, the beneficiaries described in s.
1057 736.0103(19)(a) and (c) s. ~~736.0103(16)(a) and (e)~~; or

1058 2. If there is no beneficiary as described in s.
1059 736.0103(19)(c) s. ~~736.0103(16)(e)~~, the beneficiaries described
1060 in s. 736.0103(19)(a) and (b) s. ~~736.0103(16)(a) and (b)~~.

1061 Section 43. Paragraph (d) of subsection (9) of section
1062 738.104, Florida Statutes, is amended to read:

1063 738.104 Trustee's power to adjust.—

1064 (9)

1065 (d) For purposes of subsection (8) and this subsection, the
1066 term:

1067 1. "Eligible beneficiaries" means:

1068 a. If at the time the determination is made there are one
1069 or more beneficiaries described in s. 736.0103(19)(c) s.
1070 ~~736.0103(16)(e)~~, the beneficiaries described in s.
1071 736.0103(19)(a) and (c) s. ~~736.0103(16)(a) and (e)~~; or

1072 b. If there is no beneficiary described in s.
1073 736.0103(19)(c) s. ~~736.0103(16)(e)~~, the beneficiaries described

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1074 in s. 736.0103(19) (a) and (b) ~~s. 736.0103(16) (a) and (b)~~.

1075 2. "Super majority of the eligible beneficiaries" means:

1076 a. If at the time the determination is made there are one
 1077 or more beneficiaries described in s. 736.0103(19) (c) ~~s.~~
 1078 ~~736.0103(16) (e)~~, at least two-thirds in interest of the
 1079 beneficiaries described in s. 736.0103(19) (a) ~~s. 736.0103(16) (a)~~
 1080 or two-thirds in interest of the beneficiaries described in s.
 1081 736.0103(19) (c) ~~s. 736.0103(16) (e)~~, if the interests of the
 1082 beneficiaries are reasonably ascertainable; otherwise, it means
 1083 two-thirds in number of either such class; or

1084 b. If there is no beneficiary described in s.
 1085 736.0103(19) (c) ~~s. 736.0103(16) (e)~~, at least two-thirds in
 1086 interest of the beneficiaries described in s. 736.0103(19) (a) ~~s.~~
 1087 ~~736.0103(16) (a)~~ or two-thirds in interest of the beneficiaries
 1088 described in s. 736.0103(19) (b) ~~s. 736.0103(16) (b)~~, if the
 1089 interests of the beneficiaries are reasonably ascertainable,
 1090 otherwise, two-thirds in number of either such class.

1091 Section 44. Subsection (1) of section 744.3679, Florida
 1092 Statutes, is amended to read:

1093 744.3679 Simplified accounting procedures in certain
 1094 cases.—

1095 (1) In a guardianship of property, when all property assets
 1096 of the estate is ~~are~~ in designated depositories under s. 69.031
 1097 and the only transactions that occur in that account are
 1098 interest accrual, deposits from a settlement, or financial
 1099 institution service charges, the guardian may elect to file an
 1100 accounting consisting of:

1101 (a) The original or a certified copy of the year-end
 1102 statement of the ward's account from the financial institution;

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1103 and

1104 (b) A statement by the guardian under penalty of perjury
1105 that the guardian has custody and control of the ward's property
1106 as shown in the year-end statement.

1107 Section 45. The Division of Law Revision is directed to
1108 replace the phrase "the effective date of this section" wherever
1109 it occurs in this act with the date those sections become law.

1110 Section 46. If any provision of this act or the application
1111 thereof to any person or circumstance is held invalid, the
1112 invalidity does not affect other provisions or applications of
1113 this act which can be given effect without the invalid provision
1114 or application, and to this end the provisions of this act are
1115 severable.

1116 Section 47. Except as otherwise expressly provided in this
1117 act and except for this section, which shall take effect upon
1118 this act becoming a law, this act shall take effect July 1,
1119 2021.