

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

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1 Committee/Subcommittee hearing bill: Judiciary Committee  
 2 Representative Beltran offered the following:

**Amendment (with title amendment)**

Remove lines 54-232 and insert:

qualified beneficiaries except as otherwise provided in s. 736.0813(1)(d).

Section 3. Present subsections (4), (5), and (6) of section 736.0109, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, a new subsection (4) is added to that section, and subsection (1) and present subsection (4) of that section are amended, to read:

736.0109 Methods and waiver of notice.—

(1) Notice to a person under this code or the sending of a document to a person under this code must be accomplished in a manner reasonably suitable under the circumstances and likely to

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17 result in receipt of the notice or document. Permissible methods  
18 of notice or for sending a document include first-class mail,  
19 personal delivery, delivery to the person's last known place of  
20 residence or place of business, a properly directed facsimile or  
21 other electronic message, including e-mail, or posting on a  
22 secure electronic account or website in accordance with  
23 subsection (3).

24 (4) Notwithstanding subsection (3), a family trust  
25 company, licensed family trust company, or foreign licensed  
26 family trust company, as defined in s. 662.111, that is a  
27 trustee of a trust may use any permissible method for providing  
28 notice or for sending a document specified in subsection (1) or  
29 may send a properly directed e-mail that contains an attached  
30 notice or document or contains a hyperlink through which the  
31 recipient can view the notice or document as a permissible  
32 method of providing notice or sending a document. For purposes  
33 of this subsection, such notice or document sent by e-mail is  
34 deemed to have been sent if any username, password, or other  
35 specific instructions needed to access the notice or document  
36 are communicated to the recipient beforehand or  
37 contemporaneously with the sending of the e-mail message  
38 containing the notice, document, or hyperlink, or upon the  
39 request of the recipient.

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40        ~~(5)-(4)~~ Notice to a person under this code, or the sending  
41 of a document to a person under this code electronically ~~by~~  
42 ~~electronic message~~, is complete when ~~the document is~~ sent.

43        (a) An electronic message is presumed received on the date  
44 that the message is sent.

45        (b) If the sender has knowledge that an electronic message  
46 did not reach the recipient, the electronic message is deemed to  
47 have not been received. The sender has the burden to prove that  
48 another copy of the notice or document was sent by electronic  
49 message or by other means authorized by this section.

50        Section 4. Subsection (5) of section 736.0303, Florida  
51 Statutes, is amended to read:

52        736.0303 Representation by fiduciaries and parents.—To the  
53 extent there is no conflict of interest between the  
54 representative and the person represented or among those being  
55 represented with respect to a particular question or dispute:

56        (5) A parent may represent and bind the parent's unborn  
57 child and the unborn descendants of such unborn child, or the  
58 parent's minor child and the minor or unborn descendants of such  
59 minor child, if a guardian of the property for the unborn child,  
60 minor child, or such child's descendants has not been appointed.

61        Section 5. Subsection (1) of section 736.0409, Florida  
62 Statutes, is amended to read:

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63           736.0409 Noncharitable trust without ascertainable  
64 beneficiary.—Except as otherwise provided in s. 736.0408 or by  
65 another provision of law, the following rules apply:

66           (1) A trust may be created for a noncharitable purpose  
67 without a definite or definitely ascertainable beneficiary or  
68 for a noncharitable but otherwise valid purpose to be selected  
69 by the trustee. The trust may not be enforced for more than  
70 1,000 ~~21~~ years.

71           Section 6. Paragraph (b) of subsection (3) of section  
72 736.04115, F.S., is amended to read:

73           736.04115 Judicial modification of irrevocable trust when  
74 modification is in best interests of beneficiaries.—

75           (3) This section shall not apply to:

76           (b) Any trust created after December 31, 2000, if:

77           1. Under the terms of the trust, all beneficial interests  
78 in the trust must vest or terminate within the period prescribed  
79 by the rule against perpetuities in s. 689.225(2),  
80 notwithstanding s. 689.225(2)(f) and (g).

81           2. The terms of the trust expressly prohibit judicial  
82 modification.

83           Section 7. Paragraph (b) of subsection (4) of section  
84 736.0412, Florida Statutes, is amended to read:

85           736.0412 Nonjudicial modification of irrevocable trust.—

86           (4) This section shall not apply to:

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87 (b) Any trust created after December 31, 2000, if, under  
88 the terms of the trust, all beneficial interests in the trust  
89 must vest or terminate within the period prescribed by the rule  
90 against perpetuities in s. 689.225(2), notwithstanding s.  
91 689.225(2)(f) and (g), unless the terms of the trust expressly  
92 authorize nonjudicial modification.

93 Section 8. Paragraph (d) of subsection (1) of section  
94 736.0813, Florida Statutes, is amended to read:

95 736.0813 Duty to inform and account.—The trustee shall  
96 keep the qualified beneficiaries of the trust reasonably  
97 informed of the trust and its administration.

98 (1) The trustee's duty to inform and account includes, but  
99 is not limited to, the following:

100 (d) A trustee of an irrevocable trust shall provide a  
101 trust accounting, as set forth in s. 736.08135, from the date of  
102 the last accounting or, if none, from the date on which the  
103 trustee became accountable, to each qualified beneficiary at  
104 least annually and on termination of the trust or on change of  
105 the trustee. Notwithstanding s. 736.0105(2)(s) or the duties  
106 under this paragraph, if a family trust company, licensed family  
107 trust company, or foreign licensed family trust company, as  
108 defined in s. 662.111, is a trustee of an irrevocable trust, the  
109 terms of the trust may permit for accounting to the qualified  
110 beneficiaries only at the termination of the trust; upon the  
111 removal, resignation, or other event resulting in a trustee

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112 ceasing to serve as a trustee; or upon demand of a qualified  
113 beneficiary or the representative of a qualified beneficiary.  
114 This paragraph may not be construed to prohibit a trustee that  
115 is a family trust company, licensed family trust company, or  
116 foreign licensed family trust company from voluntarily  
117 accounting to the qualified beneficiaries annually or at other  
118 times selected by such trustee.

119

120 Paragraphs (a) and (b) do not apply to an irrevocable trust  
121 created before the effective date of this code, or to a  
122 revocable trust that becomes irrevocable before the effective  
123 date of this code. Paragraph (a) does not apply to a trustee who  
124 accepts a trusteeship before the effective date of this code.

125 Section 9. Present subsection (3) of section 736.08135,  
126 Florida Statutes, is redesignated as subsection (4) and amended,  
127 and a new subsection (3) is added to that section, to read:

128 736.08135 Trust accountings.—

129 (3) Notwithstanding subsections (1) and (2), if a family  
130 trust company, licensed family trust company, or foreign  
131 licensed family trust company, as defined in s. 662.111, is a  
132 trustee of the trust, such trustee may elect, for any accounting  
133 period, to provide the qualified beneficiaries with all of the  
134 following information:

135 (a) A notice stating that the trustee has made an election  
136 to provide the information described in this subsection.

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137 (b) The information required by paragraph (2)(a) and, if  
138 applicable, the information required by paragraph (2)(f).

139 (c) A financial statement for the trust which summarizes  
140 the information provided pursuant to paragraphs (2)(b)-(e). The  
141 financial statement must contain sufficient information to put  
142 the beneficiary on notice of the trust's comprehensive assets  
143 and liabilities as well as of the transactions occurring during  
144 the accounting period. A financial statement that reports a  
145 summary of the comprehensive assets and liabilities at the  
146 beginning and end of the accounting period and the aggregate  
147 amounts of all cash and property transactions, gains, losses,  
148 receipts, expenses, disbursements, distributions, accruals, or  
149 allowances occurring within the accounting period for each  
150 category of assets and liabilities meets the requirements of  
151 this paragraph.

152  
153 For the purposes of this chapter, a financial statement that a  
154 trustee provides to a beneficiary of a trust under this  
155 subsection is deemed to be a trust accounting. Any trustee that  
156 makes the election provided in this subsection shall, upon  
157 request of any beneficiary made within the limitations period  
158 under s. 736.1008, make available the detailed information  
159 necessary for preparation of the financial statement to the  
160 beneficiary within 30 days after the date of such request,  
161 including providing copies of the requested information. A

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162 request by a beneficiary for the detailed information necessary  
163 for the preparation of the financial statement tolls the running  
164 of any applicable limitations period until the detailed  
165 information is made available to the beneficiary.

166 (4)-(3) Subsections (1) and (2) govern the form and content  
167 of all trust accountings rendered for any accounting periods  
168 beginning on or after January 1, 2003, and all trust accountings  
169 rendered on or after July 1, 2018. The election provided in  
170 subsection (3) for trusts for which a family trust company,  
171 licensed family trust company, or foreign licensed family trust  
172 company, as defined in s. 662.111, is a trustee is available for  
173 any accounting periods beginning on or after July 1, 2022. This  
174 subsection does not affect the beginning period from which a  
175 trustee is required to render a trust accounting.

176 Section 10. Subsection (2) of section 736.08145, Florida  
177 Statutes, is amended to read:

178 736.08145 Grantor trust reimbursement.—

179 (2) This section applies to all trusts that are governed  
180 by the laws of this state or that have a principal place of  
181 administration within this state, whether created on, before, or  
182

183 -----

184 **T I T L E A M E N D M E N T**

185 Remove lines 5-20 and insert:



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Bill No. CS/HB 1001 (2022)

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186 date; amending s. 736.0105, F.S.; specifying that the terms of a  
187 trust do not prevail over a trustee's duty to account to  
188 qualified beneficiaries under certain circumstances; amending s.  
189 736.0109, F.S.; clarifying circumstances under which notice, or  
190 the sending of a document, to a person under the Florida Trust  
191 Code is deemed satisfied; authorizing certain trust companies  
192 that are trustees to use specified methods for providing notice  
193 or sending a document; specifying when such notice or document  
194 is deemed sent; amending s. 736.0303, F.S.; specifying  
195 circumstances under which a parent may represent and bind the  
196 unborn descendants of his or her unborn child or the minor or  
197 unborn descendants of his or her minor child; amending s.  
198 736.0409, F.S.; revising the timeframe for which certain  
199 noncharitable trusts may be enforced; amending s. 736.04115,  
200 F.S.; adding a cross-reference; amending s. 736.0412, F.S.;  
201 adding a cross-reference; amending s. 736.0813, F.S.; providing  
202 that the terms of a trust may permit for accounting to the  
203 qualified beneficiaries only under certain circumstances;  
204 providing construction; amending s. 736.08135, F.S.; providing  
205 an alternate procedure for trust accountings for specified  
206 trustees under certain

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