

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WITHDRAWN	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>	

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee

3 Representative Beltran offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 52-153 and insert:

7 qualified beneficiaries, except as otherwise provided in s.
 8 736.0813(1)(d).

9 Section 3. Subsections (4), (5), and (6) of section
 10 736.0109, Florida Statutes, are renumbered as subsections (5),
 11 (6), and (7), respectively, subsection (1) and present
 12 subsection (4) are amended, and a new subsection (4) is added to
 13 that section, to read:

14 736.0109 Methods and waiver of notice.—

15 (1) Notice to a person under this code or the sending of a
 16 document to a person under this code must be accomplished in a

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

25 (4)(a) Notwithstanding subsection (3), a family trust
26 company, licensed family trust company, or foreign licensed
27 family trust company, as defined in s. 662.111, that is a
28 trustee of the trust, may use:

29 1. Any of the permissible methods of notice or for sending
30 a document described in subsection (1); or

31 2. A properly directed e-mail message with an attached
32 notice or document or containing a hyperlink through which the
33 recipient can view the notice or document.

34 (b) For purposes of this subsection, the notice or
35 document is deemed sent only if any username, password, or other
36 specific instructions needed to access the notice or document
37 are communicated to the recipient either prior to or
38 contemporaneously with the e-mail message containing the notice,
39 document, or hyperlink, or upon request by the recipient.

40 (5)-(4) Notice to a person under this code, or the sending

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41 of a document to a person under this code ~~by electronic message~~
42 electronically, 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:

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:

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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. Subsection (1) of section 736.0813, is amended
72 to read:

73 736.0813 Duty to inform and account.—

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

76 (a) Within 60 days after acceptance of the trust, the
77 trustee shall give notice to the qualified beneficiaries of the
78 acceptance of the trust, the full name and address of the
79 trustee, and that the fiduciary lawyer-client privilege in s.
80 90.5021 applies with respect to the trustee and any attorney
81 employed by the trustee.

82 (b) Within 60 days after the date the trustee acquires
83 knowledge of the creation of an irrevocable trust, or the date
84 the trustee acquires knowledge that a formerly revocable trust
85 has become irrevocable, whether by the death of the settlor or
86 otherwise, the trustee shall give notice to the qualified
87 beneficiaries of the trust's existence, the identity of the
88 settlor or settlors, the right to request a copy of the trust
89 instrument, the right to accountings under this section, and
90 that the fiduciary lawyer-client privilege in s. 90.5021 applies

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91 with respect to the trustee and any attorney employed by the
92 trustee.

93 (c) Upon reasonable request, the trustee shall provide a
94 qualified beneficiary with a complete copy of the trust
95 instrument.

96 (d)1. A trustee of an irrevocable trust shall provide a
97 trust accounting, as set forth in s. 736.08135, from the date of
98 the last accounting or, if none, from the date on which the
99 trustee became accountable, to each qualified beneficiary at
100 least annually and on termination of the trust or on change of
101 the trustee.

102 2. Notwithstanding s. 736.0105 or the duties set forth in
103 this paragraph, if a family trust company, licensed family trust
104 company, or foreign licensed family trust company, as defined in
105 s. 662.111, is a trustee of an irrevocable trust, the terms of
106 the trust may permit such a trustee to only account to the
107 qualified beneficiaries upon:

108 a. The termination of the trust;

109 b. The removal, resignation, or other event resulting in a
110 trustee ceasing to serve; or

111 c. Demand of a qualified beneficiary or the representative
112 of a qualified beneficiary.

113 3. Nothing in this paragraph shall prevent a trustee that
114 is a family trust company, licensed family trust company, or
115 foreign licensed family trust company from voluntarily

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116 accounting to the qualified beneficiaries annually or at other
117 times selected by such trustee.

118 (e) Upon reasonable request, the trustee shall provide a
119 qualified beneficiary with relevant information about the assets
120 and liabilities of the trust and the particulars relating to
121 administration.

122

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

128 Section 7. Subsection (3) of section 736.08135, is
129 renumbered as subsection (4) and amended, and a new subsection
130 (3) is added to that section, to read:

131 736.08135 Trust accountings.—

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

138 (a) A notice stating that the trustee has made an election
139 to provide the information enumerated in this subsection.

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

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

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

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165 detailed information necessary for the preparation of the
166 financial statement shall toll the running of any applicable
167 limitations period until the detailed information is made
168 available to the beneficiary.

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

179
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181 **T I T L E A M E N D M E N T**

182 Remove lines 5-16 and insert:
183 date; amending s. 736.0105, F.S.; providing that
184 certain irrevocable trusts may specify a trustee's
185 duty to account to certain beneficiaries; amending s.
186 736.0109, F.S.; specifying additional circumstances
187 under which notice, or the sending of a document, to a
188 person under the Florida Trust Code is deemed
189 satisfied; amending s. 736.0303, F.S.; specifying

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190 | circumstances under which a parent may represent and
191 | bind the unborn descendants of his or her unborn or
192 | minor child; amending s. 736.0409, F.S.; revising the
193 | timeframe for which certain noncharitable trusts may
194 | be enforced; amending s. 736.0813; providing that
195 | certain irrevocable trusts may specify a trustee's
196 | duty to account to certain beneficiaries;