



26 providing an alternate procedure for trust accountings  
 27 under certain circumstances; specifying requirements  
 28 and applicability; amending s. 736.08145, F.S.;  
 29 clarifying the application of law governing grantor  
 30 trust reimbursement; providing an effective date.

31

32 Be It Enacted by the Legislature of the State of Florida:

33

34 Section 1. Paragraph (f) of subsection (2) of section  
 35 689.225, Florida Statutes, is amended, and paragraph (g) is  
 36 added to that subsection to read:

37 689.225 Statutory rule against perpetuities.—

38 (2) STATEMENT OF THE RULE.—

39 (f) As to any trust created after December 31, 2000,  
 40 through June 30, 2022, this section shall apply to a nonvested  
 41 property interest or power of appointment contained in a trust  
 42 by substituting 360 years in place of "90 years" in each place  
 43 such term appears in this section unless the terms of the trust  
 44 require that all beneficial interests in the trust vest or  
 45 terminate within a lesser period.

46 (g) As to any trust created on or after July 1, 2022, this  
 47 section shall apply to a nonvested property interest or power of  
 48 appointment contained in a trust by substituting 1,000 years in  
 49 place of "90 years" in each place such term appears in this  
 50 section unless the terms of the trust require that all

51 beneficial interests in the trust vest or terminate within a  
52 lesser period.

53 Section 2. Paragraph (s) of subsection (2) of section  
54 736.0105, Florida Statutes, is amended to read:

55 736.0105 Default and mandatory rules.—

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

58 (s) The duty under s. 736.0813(1)(c) and (d) to provide a  
59 complete copy of the trust instrument and to account to  
60 qualified beneficiaries, except as otherwise provided in s.  
61 736.0813(1)(d).

62 Section 3. Subsections (4), (5), and (6) of section  
63 736.0109, Florida Statutes, are renumbered as subsections (5),  
64 (6), and (7), respectively, subsection (1) and present  
65 subsection (4) are amended, and a new subsection (4) is added to  
66 that section, to read:

67 736.0109 Methods and waiver of notice.—

68 (1) Notice to a person under this code or the sending of a  
69 document to a person under this code must be accomplished in a  
70 manner reasonably suitable under the circumstances and likely to  
71 result in receipt of the notice or document. Permissible methods  
72 of notice or for sending a document include first-class mail,  
73 personal delivery, delivery to the person's last known place of  
74 residence or place of business, a properly directed facsimile or  
75 other electronic message including e-mail, or posting on a

76 | secure electronic account or website in accordance with  
 77 | subsection (3).

78 |       (4) Notwithstanding subsection (3), a family trust  
 79 | company, licensed family trust company, or foreign licensed  
 80 | family trust company, as defined in s. 662.111, that is a  
 81 | trustee of a trust may use any permissible method for providing  
 82 | notice or for sending a document specified in subsection (1) or  
 83 | may send a properly directed e-mail that contains an attached  
 84 | notice or document or contains a hyperlink through which the  
 85 | recipient can view the notice or document as a permissible  
 86 | method of providing notice or sending a document. For purposes  
 87 | of this subsection, such notice or document sent by e-mail is  
 88 | deemed to have been sent if any username, password, or other  
 89 | specific instructions needed to access the notice or document  
 90 | are communicated to the recipient beforehand or  
 91 | contemporaneously with the sending of the e-mail message  
 92 | containing the notice, document, or hyperlink, or upon the  
 93 | request of the recipient.

94 |       (5)~~(4)~~ Notice to a person under this code, or the sending  
 95 | of a document to a person under this code electronically ~~by~~  
 96 | ~~electronic message~~, is complete when ~~the document is~~ sent.

97 |       (a) An electronic message is presumed received on the date  
 98 | that the message is sent.

99 |       (b) If the sender has knowledge that an electronic message  
 100 | did not reach the recipient, the electronic message is deemed to

101 have not been received. The sender has the burden to prove that  
 102 another copy of the notice or document was sent by electronic  
 103 message or by other means authorized by this section.

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

106 736.0303 Representation by fiduciaries and parents.—To the  
 107 extent there is no conflict of interest between the  
 108 representative and the person represented or among those being  
 109 represented with respect to a particular question or dispute:

110 (5) A parent may represent and bind the parent's unborn  
 111 child and the unborn descendants of such unborn child, or the  
 112 parent's minor child and the minor or unborn descendants of such  
 113 minor child, if a guardian of the property for the unborn child,  
 114 minor child, or such child's descendants has not been appointed.

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

117 736.0409 Noncharitable trust without ascertainable  
 118 beneficiary.—Except as otherwise provided in s. 736.0408 or by  
 119 another provision of law, the following rules apply:

120 (1) A trust may be created for a noncharitable purpose  
 121 without a definite or definitely ascertainable beneficiary or  
 122 for a noncharitable but otherwise valid purpose to be selected  
 123 by the trustee. The trust may not be enforced for more than  
 124 1,000 ~~21~~ years.

125 Section 6. Paragraph (b) of subsection (3) of section

126 736.04115, Florida Statutes, is amended to read:

127 736.04115 Judicial modification of irrevocable trust when  
128 modification is in best interests of beneficiaries.-

129 (3) This section shall not apply to:

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

131 1. Under the terms of the trust, all beneficial interests  
132 in the trust must vest or terminate within the period prescribed  
133 by the rule against perpetuities in s. 689.225(2),  
134 notwithstanding s. 689.225(2)(f) and (g) ~~s. 689.225(2)(f)~~.

135 2. The terms of the trust expressly prohibit judicial  
136 modification.

137 Section 7. Paragraph (b) of subsection (4) of section  
138 736.0412, Florida Statutes, is amended to read:

139 736.0412 Nonjudicial modification of irrevocable trust.-

140 (4) This section shall not apply to:

141 (b) Any trust created after December 31, 2000, if, under  
142 the terms of the trust, all beneficial interests in the trust  
143 must vest or terminate within the period prescribed by the rule  
144 against perpetuities in s. 689.225(2), notwithstanding s.  
145 689.225(2)(f) and (g) ~~s. 689.225(2)(f)~~, unless the terms of the  
146 trust expressly authorize nonjudicial modification.

147 Section 8. Paragraph (d) of subsection (1) of section  
148 736.0813, Florida Statutes, is amended to read:

149 736.0813 Duty to inform and account.-The trustee shall  
150 keep the qualified beneficiaries of the trust reasonably

151 informed of the trust and its administration.

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

154 (d) A trustee of an irrevocable trust shall provide a  
155 trust accounting, as set forth in s. 736.08135, from the date of  
156 the last accounting or, if none, from the date on which the  
157 trustee became accountable, to each qualified beneficiary at  
158 least annually and on termination of the trust or on change of  
159 the trustee. Notwithstanding s. 736.0105(2)(s) or the duties  
160 under this paragraph, if a family trust company, licensed family  
161 trust company, or foreign licensed family trust company, as  
162 defined in s. 662.111, is a trustee of an irrevocable trust, the  
163 terms of the trust may permit for accounting to the qualified  
164 beneficiaries only at the termination of the trust; upon the  
165 removal, resignation, or other event resulting in a trustee  
166 ceasing to serve as a trustee; or upon demand of a qualified  
167 beneficiary or the representative of a qualified beneficiary.  
168 This paragraph may not be construed to prohibit a trustee that  
169 is a family trust company, licensed family trust company, or  
170 foreign licensed family trust company from voluntarily  
171 accounting to the qualified beneficiaries annually or at other  
172 times selected by such trustee.

173  
174 Paragraphs (a) and (b) do not apply to an irrevocable trust  
175 created before the effective date of this code, or to a

176 | revocable trust that becomes irrevocable before the effective  
 177 | date of this code. Paragraph (a) does not apply to a trustee who  
 178 | accepts a trusteeship before the effective date of this code.

179 |       Section 9. Subsection (3) of section 736.08135, Florida  
 180 | Statutes, is renumbered as subsection (4) and amended, and a new  
 181 | subsection (3) is added to that section, to read:

182 |       736.08135 Trust accountings.—

183 |       (3) Notwithstanding subsections (1) and (2), if a family  
 184 | trust company, licensed family trust company, or foreign  
 185 | licensed family trust company, as defined in s. 662.111, is a  
 186 | trustee of the trust, such trustee may elect, for any accounting  
 187 | period, to provide the qualified beneficiaries with all of the  
 188 | following information:

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

191 |       (b) The information required by paragraph (2)(a) and, if  
 192 | applicable, the information required by paragraph (2)(f).

193 |       (c) A financial statement for the trust which summarizes  
 194 | the information provided pursuant to paragraphs (2)(b)-(e). The  
 195 | financial statement must contain sufficient information to put  
 196 | the beneficiary on notice of the trust's comprehensive assets  
 197 | and liabilities as well as of the transactions occurring during  
 198 | the accounting period. A financial statement that reports a  
 199 | summary of the comprehensive assets and liabilities at the  
 200 | beginning and end of the accounting period and the aggregate



201 amounts of all cash and property transactions, gains, losses,  
 202 receipts, expenses, disbursements, distributions, accruals, or  
 203 allowances occurring within the accounting period for each  
 204 category of assets and liabilities meets the requirements of  
 205 this paragraph.

206  
 207 For the purposes of this chapter, a financial statement that a  
 208 trustee provides to a beneficiary of a trust under this  
 209 subsection is deemed to be a trust accounting. Any trustee that  
 210 makes the election provided in this subsection shall, upon  
 211 request of any beneficiary made within the limitations period  
 212 under s. 736.1008, make available the detailed information  
 213 necessary for preparation of the financial statement to the  
 214 beneficiary within 30 days after the date of such request,  
 215 including providing copies of the requested information. A  
 216 request by a beneficiary for the detailed information necessary  
 217 for the preparation of the financial statement tolls the running  
 218 of any applicable limitations period until the detailed  
 219 information is made available to the beneficiary.

220 (4)-(3) Subsections (1) and (2) govern the form and content  
 221 of all trust accountings rendered for any accounting periods  
 222 beginning on or after January 1, 2003, and all trust accountings  
 223 rendered on or after July 1, 2018. The election provided in  
 224 subsection (3) for trusts for which a family trust company,  
 225 licensed family trust company, or foreign licensed family trust

226 company, as defined in s. 662.111, is a trustee is available for  
 227 any accounting periods beginning on or after July 1, 2022. This  
 228 subsection does not affect the beginning period from which a  
 229 trustee is required to render a trust accounting.

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

232 736.08145 Grantor trust reimbursement.—

233 (2) This section applies to all trusts that are governed  
 234 by the laws of this state or that have a principal place of  
 235 administration within this state, whether created on, before, or  
 236 after July 1, 2020, unless:

237 (a) The trustee provides written notification that the  
 238 trustee intends to irrevocably elect out of the application of  
 239 this section, at least 60 days before the effective date of such  
 240 election, to the person treated as the owner of all or a portion  
 241 of the trust under s. 671 of the Internal Revenue Code or any  
 242 similar federal, state, or other tax law and to all persons who  
 243 have the ability to remove and replace the trustee.

244 (b) Applying this section would prevent a contribution to  
 245 the trust from qualifying for, or would reduce, a federal tax  
 246 benefit, including a federal tax exclusion or deduction, which  
 247 was originally claimed or could have been claimed for the  
 248 contribution, including:

249 1. An exclusion under s. 2503(b) or s. 2503(c) of the  
 250 Internal Revenue Code;

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

253           3. A charitable deduction under s. 170(a), s. 642(c), s.  
254 2055(a), or s. 2522(a) of the Internal Revenue Code; or

255           4. Direct skip treatment under s. 2642(c) of the Internal  
256 Revenue Code.

257           Section 11. This act shall take effect July 1, 2022.