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2 An act relating to trusts; amending s. 689.225, F.S.;  
3 revising criteria for application of the rule against  
4 perpetuities to trusts created on or after a specified  
5 date; amending s. 736.0105, F.S.; specifying that the  
6 terms of a trust do not prevail over a trustee's duty  
7 to account to qualified beneficiaries under certain  
8 circumstances; amending s. 736.0109, F.S.; clarifying  
9 circumstances under which notice, or the sending of a  
10 document, to a person under the Florida Trust Code is  
11 deemed satisfied; authorizing certain trust companies  
12 that are trustees to use specified methods for  
13 providing notice or sending a document; specifying  
14 when such notice or document is deemed sent; amending  
15 s. 736.0303, F.S.; specifying circumstances under  
16 which a parent may represent and bind the unborn  
17 descendants of his or her unborn child or the minor or  
18 unborn descendants of his or her minor child; amending  
19 s. 736.0409, F.S.; revising the timeframe for which  
20 certain noncharitable trusts may be enforced; amending  
21 ss. 736.04115 and 736.0412, F.S.; conforming  
22 provisions to changes made by the act; amending s.  
23 736.0813, F.S.; providing that the terms of a trust  
24 may permit for accounting to the qualified  
25 beneficiaries only under certain circumstances;  
26 providing construction; amending s. 736.08135, F.S.;  
27 providing an alternate procedure for trust accountings  
28 for specified trustees under certain circumstances;  
29 specifying requirements and applicability; amending s.

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30 736.08145, F.S.; clarifying the application of law  
31 governing grantor trust reimbursement; providing an  
32 effective date.

33  
34 Be It Enacted by the Legislature of the State of Florida:

35  
36 Section 1. Paragraph (f) of subsection (2) of section  
37 689.225, Florida Statutes, is amended, and paragraph (g) is  
38 added to that subsection, to read:

39 689.225 Statutory rule against perpetuities.—

40 (2) STATEMENT OF THE RULE.—

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

48 (g) As to any trust created on or after July 1, 2022, this  
49 section shall apply to a nonvested property interest or power of  
50 appointment contained in a trust by substituting 1,000 years in  
51 place of "90 years" in each place such term appears in this  
52 section unless the terms of the trust require that all  
53 beneficial interests in the trust vest or terminate within a  
54 lesser period.

55 Section 2. Paragraph (s) of subsection (2) of section  
56 736.0105, Florida Statutes, is amended to read:

57 736.0105 Default and mandatory rules.—

58 (2) The terms of a trust prevail over any provision of this

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59 code except:

60 (s) The duty under s. 736.0813(1)(c) and (d) to provide a  
61 complete copy of the trust instrument and to account to  
62 qualified beneficiaries except as otherwise provided in s.  
63 736.0813(1)(d).

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

69 736.0109 Methods and waiver of notice.—

70 (1) Notice to a person under this code or the sending of a  
71 document to a person under this code must be accomplished in a  
72 manner reasonably suitable under the circumstances and likely to  
73 result in receipt of the notice or document. Permissible methods  
74 of notice or for sending a document include first-class mail,  
75 personal delivery, delivery to the person's last known place of  
76 residence or place of business, a properly directed facsimile or  
77 other electronic message, including e-mail, or posting on a  
78 secure electronic account or website in accordance with  
79 subsection (3).

80 (4) Notwithstanding subsection (3), a family trust company,  
81 licensed family trust company, or foreign licensed family trust  
82 company, as defined in s. 662.111, that is a trustee of a trust  
83 may use any permissible method for providing notice or for  
84 sending a document specified in subsection (1) or may send a  
85 properly directed e-mail that contains an attached notice or  
86 document or contains a hyperlink through which the recipient can  
87 view the notice or document as a permissible method of providing

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88 notice or sending a document. For purposes of this subsection,  
89 such notice or document sent by e-mail is deemed to have been  
90 sent if any username, password, or other specific instructions  
91 needed to access the notice or document are communicated to the  
92 recipient beforehand or contemporaneously with the sending of  
93 the e-mail message containing the notice, document, or  
94 hyperlink, or upon the request of the recipient.

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

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

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

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

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

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

116 Section 5. Subsection (1) of section 736.0409, Florida

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117 Statutes, is amended to read:

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

121       (1) A trust may be created for a noncharitable purpose  
122 without a definite or definitely ascertainable beneficiary or  
123 for a noncharitable but otherwise valid purpose to be selected  
124 by the trustee. The trust may not be enforced for more than  
125 1,000 ~~24~~ years.

126       Section 6. Paragraph (b) of subsection (3) of section  
127 736.04115, Florida Statutes, is amended to read:

128       736.04115 Judicial modification of irrevocable trust when  
129 modification is in best interests of beneficiaries.—

130       (3) This section shall not apply to:

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

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

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

138       Section 7. Paragraph (b) of subsection (4) of section  
139 736.0412, Florida Statutes, is amended to read:

140       736.0412 Nonjudicial modification of irrevocable trust.—

141       (4) This section shall not apply to:

142       (b) Any trust created after December 31, 2000, if, under  
143 the terms of the trust, all beneficial interests in the trust  
144 must vest or terminate within the period prescribed by the rule  
145 against perpetuities in s. 689.225(2), notwithstanding s.

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146 689.225(2) (f) and (g), unless the terms of the trust expressly  
147 authorize nonjudicial modification.

148 Section 8. Paragraph (d) of subsection (1) of section  
149 736.0813, Florida Statutes, is amended to read:

150 736.0813 Duty to inform and account.—The trustee shall keep  
151 the qualified beneficiaries of the trust reasonably informed of  
152 the trust and its administration.

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

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

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175 Paragraphs (a) and (b) do not apply to an irrevocable trust  
176 created before the effective date of this code, or to a  
177 revocable trust that becomes irrevocable before the effective  
178 date of this code. Paragraph (a) does not apply to a trustee who  
179 accepts a trusteeship before the effective date of this code.

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

183 736.08135 Trust accountings.—

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

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

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

194 (c) A financial statement for the trust which summarizes  
195 the information provided pursuant to paragraphs (2) (b)-(e). The  
196 financial statement must contain sufficient information to put  
197 the beneficiary on notice of the trust's comprehensive assets  
198 and liabilities as well as of the transactions occurring during  
199 the accounting period. A financial statement that reports a  
200 summary of the comprehensive assets and liabilities at the  
201 beginning and end of the accounting period and the aggregate  
202 amounts of all cash and property transactions, gains, losses,  
203 receipts, expenses, disbursements, distributions, accruals, or

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204 allowances occurring within the accounting period for each  
205 category of assets and liabilities meets the requirements of  
206 this paragraph.

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

221 (4)~~(3)~~ Subsections (1) and (2) govern the form and content  
222 of all trust accountings rendered for any accounting periods  
223 beginning on or after January 1, 2003, and all trust accountings  
224 rendered on or after July 1, 2018. The election provided in  
225 subsection (3) for trusts for which a family trust company,  
226 licensed family trust company, or foreign licensed family trust  
227 company, as defined in s. 662.111, is a trustee is available for  
228 any accounting periods beginning on or after July 1, 2022. This  
229 subsection does not affect the beginning period from which a  
230 trustee is required to render a trust accounting.

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



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233 736.08145 Grantor trust reimbursement.—

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

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

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

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

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

254 3. A charitable deduction under s. 170(a), s. 642(c), s.  
255 2055(a), or s. 2522(a) of the Internal Revenue Code; or

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

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