

By Senator Powell

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1 A bill to be entitled
2 An act relating to estates and trusts; amending s.
3 733.705, F.S.; providing that the requirement for a
4 claimant to file an independent action is satisfied if
5 specified actions are taken; specifying that
6 claimants, not creditors, are given certain priority
7 of claims; amending s. 736.0705, F.S.; providing that
8 a trustee may resign by specified procedure and with
9 notice to certain parties; providing an effective
10 date.

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

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14 Section 1. Subsection (5) of section 733.705, Florida
15 Statutes, is amended to read:

16 733.705 Payment of and objection to claims.—

17 (5) The claimant is limited to a period of 30 days from the
18 date of service of an objection within which to bring an
19 independent action upon the claim, or a declaratory action to
20 establish the validity and amount of an unmatured claim which is
21 not yet due but which is certain to become due in the future, or
22 a declaratory action to establish the validity of a contingent
23 claim upon which no cause of action has accrued on the date of
24 service of an objection and that may or may not become due in
25 the future, unless an extension of this time is agreed to by the
26 personal representative in writing before it expires.

27 (a) For good cause, the court may extend the time for
28 filing an action or proceeding after objection is filed. No
29 action or proceeding on the claim may be brought against the

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30 personal representative after the time limited above, and the
31 claim is barred without court order.

32 (b) If an action or proceeding by the claimant is pending
33 against the decedent at the time of the decedent's death, the
34 requirement to bring an independent action is satisfied if,
35 within 30 days after the filing of an objection to the claim:

36 1. A motion complying with all applicable rules of
37 procedure is filed, or a similar procedure is initiated, to
38 substitute the proper party; or

39 2. An order substituting the proper party is entered.

40 (c) If the decedent entered into a binding arbitration
41 agreement relating to the claim during his or her lifetime, or
42 if arbitration is required under s. 731.401, the requirement to
43 bring an independent action is satisfied if, within 30 days
44 after the filing of an objection to the claim, a motion to
45 compel arbitration against the proper party is initiated, as
46 provided for in s. 682.03.

47 (d) If arbitration was commenced before the decedent's
48 death, the requirement to bring an independent action is
49 satisfied if, within 30 days after the filing of an objection to
50 the claim, notice is given to the proper party. If the
51 arbitration was commenced by order of the court, the notice must
52 take the form of a timely filed motion, complying with all
53 applicable rules of procedure, to substitute the proper party.

54 (e) If an objection is filed to the claim of any claimant
55 ~~creditor~~ and the claimant ~~creditor~~ brings an action to establish
56 the claim, a judgment establishing the claim shall give it no
57 priority over claims of the same class to which it belongs.

58 Section 2. Subsection (1) of section 736.0705, Florida

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59 Statutes, is amended to read:

60 736.0705 Resignation of trustee.-

61 (1) A trustee may resign in accordance with the procedure
62 set forth in the trust instrument and upon notice to the
63 cotrustees or, if none, to the successor trustee who has
64 accepted the appointment, or, if none, to the person or persons
65 who have the authority to appoint a successor trustee.

66 Notwithstanding any provision of the terms of the trust, a
67 trustee may also resign:

68 (a) Upon at least 30 days' notice to the qualified
69 beneficiaries, the settlor, if living, and all cotrustees; or

70 (b) With the approval of the court.

71 Section 3. This act shall take effect July 1, 2022.