- 1	
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. 736.0505, F.S.; providing that
8	certain trust assets are deemed to have been
9	contributed by a specified party upon death; amending
10	s. 736.0705, F.S.; providing that a trustee may resign
11	by specified procedure and with notice to certain
12	parties; providing an effective date.
13	
14	Be It Enacted by the Legislature of the State of Florida:
15	
16	Section 1. Subsection (5) of section 733.705, Florida
17	Statutes, is amended to read:
18	733.705 Payment of and objection to claims
19	(5) The claimant is limited to a period of 30 days from
20	the date of service of an objection within which to bring an
21	independent action upon the claim, or a declaratory action to
22	establish the validity and amount of an unmatured claim which is
23	not yet due but which is certain to become due in the future, or
24	a declaratory action to establish the validity of a contingent
25	claim upon which no cause of action has accrued on the date of
	Page 1 of 4

CODING: Words stricken are deletions; words underlined are additions.

2022

2022

26	service of an objection and that may or may not become due in
27	the future, unless an extension of this time is agreed to by the
28	personal representative in writing before it expires.
29	(a) For good cause, the court may extend the time for
30	filing an action or proceeding after objection is filed. No
31	action or proceeding on the claim may be brought against the
32	personal representative after the time limited above, and the
33	claim is barred without court order.
34	(b) If an action or proceeding by the claimant is pending
35	against the decedent at the time of the decedent's death, the
36	requirement to bring an independent action is satisfied if,
37	within 30 days after the filing of an objection to the claim:
38	1. A motion complying with all applicable rules of
39	procedure is filed, or a similar procedure is initiated, to
40	substitute the proper party; or
41	2. An order substituting the proper party is entered.
42	(c) If the decedent entered into a binding arbitration
43	agreement relating to the claim during his or her lifetime, or
44	if arbitration is required under s. 731.401, the requirement to
45	bring an independent action is satisfied if, within 30 days
46	after the filing of an objection to the claim, a motion to
47	compel arbitration against the proper party is initiated, as
48	provided for in s. 682.03.
49	(d) If arbitration was commenced before the decedent's
50	death, the requirement to bring an independent action is

Page 2 of 4

CODING: Words stricken are deletions; words underlined are additions.

2022

51	satisfied if, within 30 days after the filing of an objection to
52	the claim, notice is given to the proper party. If the
53	arbitration was commenced by order of the court, the notice must
54	take the form of a timely filed motion, complying with all
55	applicable rules of procedure, to substitute the proper party.
56	<u>(e)</u> If an objection is filed to the claim of any <u>claimant</u>
57	<del>creditor</del> and the <u>claimant</u> <del>creditor</del> brings an action to establish
58	the claim, a judgment establishing the claim shall give it no
59	priority over claims of the same class to which it belongs.
60	Section 2. Subsection (3) of section 736.0505, Florida
61	Statutes, is amended to read:
62	736.0505 Creditors' claims against settlor
63	(3) Subject to the provisions of s. 726.105, for purposes
64	of this section, the assets in:
65	(a) <u>1.</u> A trust described in s. 2523(e) of the Internal
66	Revenue Code of 1986, as amended <u>;</u> , or
67	2. A trust for which the election described in s. 2523(f)
68	of the Internal Revenue Code of 1986, as amended, has been made;
69	or
70	3. An irrevocable trust in which:
71	a. The settlor's spouse is a qualified beneficiary as
72	defined in s. 736.0103(19)(a) for the lifetime of the settlor's
73	spouse;
74	b. The settlor has never been a qualified beneficiary as
75	defined in s. 736.0103(19)(a) during the lifetime of the
	Page 3 of 4

CODING: Words stricken are deletions; words underlined are additions.

76	settlor's spouse; and
77	c. Transfers to the trust by the settlor are completed
78	gifts under s. 2511 of the Internal Revenue Code of 1986, as
79	amended; and
80	(b) Another trust, to the extent that the assets in the
81	other trust are attributable to a trust described in paragraph
82	(a),
83	
84	shall, after the death of the settlor's spouse, be deemed to
85	have been contributed by the settlor's spouse and not by the
86	settlor.
87	Section 3. Subsection (1) of section 736.0705, Florida
88	Statutes, is amended to read:
89	736.0705 Resignation of trustee
90	(1) A trustee may resign in accordance with the procedure
91	set forth in the trust instrument and upon notice to the
92	cotrustees or, if none, to the successor trustee who has
93	accepted the appointment, or, if none, to the person or persons
94	who have the authority to appoint a successor trustee.
95	Notwithstanding any provision of the terms of the trust, a
96	trustee may also resign:
97	(a) Upon at least 30 days' notice to the qualified
98	beneficiaries, the settlor, if living, and all cotrustees; or
99	(b) With the approval of the court.
100	Section 4. This act shall take effect July 1, 2022.
	Page 4 of 4

CODING: Words stricken are deletions; words underlined are additions.

2022