

By Senator Yarborough

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1 A bill to be entitled
2 An act relating to the Florida Trust Code; amending s.
3 736.0110, F.S.; providing that the Attorney General
4 has exclusive standing to assert certain rights of
5 beneficiaries of charitable trusts in any judicial
6 proceeding within this state or elsewhere; prohibiting
7 certain public officers of another state from
8 asserting such rights; amending s. 736.0106, F.S.;
9 conforming provisions to changes made by the act;
10 amending s. 736.0405, F.S.; providing construction;
11 reenacting s. 738.303(2)(b) and (d), F.S., relating to
12 authority of a fiduciary, to incorporate the amendment
13 made to s. 736.0110, F.S., in references thereto;
14 providing an effective date.

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

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18 Section 1. Subsection (3) of section 736.0110, Florida
19 Statutes, is amended to read:

20 736.0110 Others treated as qualified beneficiaries.—

21 (3) (a) The Attorney General may assert the rights of a
22 qualified beneficiary with respect to a charitable trust having
23 its principal place of administration in this state. The
24 Attorney General has standing to assert such rights in any
25 judicial proceedings.

26 (b) The Attorney General has exclusive standing to assert
27 such rights in any judicial proceedings within this state or
28 elsewhere. Such standing extends to all matters relating to the
29 administration of such charitable trust, including and without

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30 limitation, contract and trust law claims relating to charitable
31 distributions and the exercise of trustee powers. The Attorney
32 General of another state or any other public officer of another
33 state does not have standing to assert such rights.

34 Section 2. Section 736.0106, Florida Statutes, is amended
35 to read:

36 736.0106 Common law of trusts; principles of equity.—The
37 common law of trusts and principles of equity supplement this
38 code, except to the extent modified by this code or another law
39 of this state, including, but not limited to, s. 736.0110(3).

40 Section 3. Subsection (3) of section 736.0405, Florida
41 Statutes, is amended to read:

42 736.0405 Charitable purposes; enforcement.—

43 (3) The settlor of a charitable trust, among others, has
44 standing to enforce the trust. This subsection may not be
45 construed to afford standing to the Attorney General of any
46 other state, or another public officer of another state, with
47 respect to any charitable trust having its principal place of
48 administration in this state.

49 Section 4. For the purpose of incorporating the amendment
50 made by this act to section 736.0110, Florida Statutes, in
51 references thereto, paragraphs (b) and (d) of subsection (2) of
52 section 738.303, Florida Statutes, are reenacted to read:

53 738.303 Authority of fiduciary.—

54 (2) A fiduciary may take an action under subsection (1) if
55 all of the following apply:

56 (b) The fiduciary sends a notice in a record to the
57 qualified beneficiaries determined under ss. 736.0103 and
58 736.0110 in the manner required by s. 738.304, describing and

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59 proposing to take the action.

60 (d) At least one member of each class of the qualified
61 beneficiaries determined under ss. 736.0103 and 736.0110, other
62 than the Attorney General, receiving the notice under paragraph
63 (b) is:

- 64 1. If an individual, legally competent;
- 65 2. If not an individual, in existence; or
- 66 3. Represented in the manner provided in s. 738.304(2).

67 Section 5. This act shall take effect upon becoming a law.