

By the Committee on Judiciary; and Senator Yarborough

590-02320-25

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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.; specifying circumstances in which the
4 Attorney General has the exclusive authority to
5 represent certain interests relating to a charitable
6 trust having its principal place of administration in
7 this state; prohibiting certain public officers of
8 another state from asserting such rights; amending s.
9 736.0106, F.S.; conforming provisions to changes made
10 by the act; amending s. 736.0405, F.S.; providing
11 construction; reenacting s. 738.303(2)(b) and (d),
12 F.S., relating to authority of a fiduciary, to
13 incorporate the amendment made to s. 736.0110, F.S.,
14 in references thereto; providing an effective date.

15
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) Where the Attorney General asserts the rights of a
27 qualified beneficiary as provided in paragraph (a), the Attorney
28 General has the exclusive authority to represent the general
29 public, unnamed charitable beneficiaries, and any person having

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30 a special interest in a charitable trust, in any judicial
31 proceedings within this state or elsewhere, with respect to all
32 matters relating to the administration of the charitable trust,
33 including and without limitation, contract and trust law claims
34 relating to charitable distributions and the exercise of trustee
35 powers. The Attorney General of another state or any other
36 public officer of another state does not have standing to assert
37 such rights or interests.

38 Section 2. Section 736.0106, Florida Statutes, is amended
39 to read:

40 736.0106 Common law of trusts; principles of equity.—The
41 common law of trusts and principles of equity supplement this
42 code, except to the extent modified by this code or another law
43 of this state, including, but not limited to, s. 736.0110(3).

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

46 736.0405 Charitable purposes; enforcement.—

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

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

57 738.303 Authority of fiduciary.—

58 (2) A fiduciary may take an action under subsection (1) if

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59 all of the following apply:

60 (b) The fiduciary sends a notice in a record to the
61 qualified beneficiaries determined under ss. 736.0103 and
62 736.0110 in the manner required by s. 738.304, describing and
63 proposing to take the action.

64 (d) At least one member of each class of the qualified
65 beneficiaries determined under ss. 736.0103 and 736.0110, other
66 than the Attorney General, receiving the notice under paragraph

67 (b) is:

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

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