

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 786

INTRODUCER: Senator Berman

SUBJECT: Trusts

DATE: February 2, 2026

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<u>Pre-meeting</u>
2. _____	_____	<u>BI</u>	_____
3. _____	_____	<u>RC</u>	_____

I. Summary:

SB 786 amends the Florida Trust Code to create a summary procedure for trustee discharge that does not involve court proceedings. This procedure allows a trustee of an irrevocable trust to settle his or her accounts and be discharged of responsibilities and liabilities if no beneficiaries object. Current trustee discharge procedures require the approval of a court. The new procedure does not displace other discharge procedures in statute. If a beneficiary objects to the summary discharge of the trustee, the trustee must follow the current statutory discharge procedure.

The new summary discharge procedure is authorized if:

- The trust is irrevocable; and
- The trustee has substantially complied with the statutory requirements to provide information and accountings to trust beneficiaries.

To initiate the procedure, the trustee must provide trust beneficiaries, and potentially others, with:

- Disclosures relating to the trust assets, including a plan of distribution;
- Contact information for the trustee;
- A statement that the trust has terminated or that the trustee has resigned or has been removed; and
- A notice that claims against the trustee will be barred unless a beneficiary submits a written objection to the trustee within 60 days.

If the trustee does not receive a timely objection, the trustee is discharged upon completion of all distributions or transfers in accordance with the plan of distribution.

The bill applies to irrevocable trusts and trusts that become irrevocable after the bill becomes effective.

The bill becomes effective upon becoming law.

II. Present Situation:

Trusts are an estate planning tool often used to transfer property and protect assets while avoiding lengthy or costly probate proceedings. The Florida Trust Code, which became effective in 2007, is contained in ch. 736, F.S. It governs the creation of trusts and the fiduciary and administrative responsibilities of trustees to manage property held in trust for the benefit of others. The code also establishes the process whereby a trustee may be discharged of his or her responsibilities.

In its most basic form, a trust is a legally binding relationship in which a person who owns property gives that property to a second person to hold and manage for the benefit of a third person. The settlor is the person who originally owned the property and created the trust. The trustee is the person who holds legal title to the trust property and manages it in accordance with the powers and responsibilities established in the terms of the trust. A beneficiary is the person for whom the property is held and who benefits from the trust.¹

Duties of a Trustee

Once a person accepts a trusteeship, he or she becomes the custodian of the trust and holds legal title to its assets. The trustee is required to administer the trust in good faith, in accordance with its terms and purposes and the interests of the beneficiaries, as well as in compliance with the Trust Code.² A trustee must administer the assets of the trust “solely in the interests of the beneficiaries”³ and take steps to protect the trust property.⁴ Additionally, a trustee is required to keep clear, distinct, and accurate records of the administration of the trust.⁵

The statutes require a trustee to keep the qualified beneficiaries “reasonably informed” of the trust and its administration.⁶ To meet this responsibility, a trustee provides a trust accounting to the beneficiaries. The accounting must be a “reasonably understandable report” from the date of the last accounting or, if there was none, from the date the trustee became accountable. In part, an accounting must show all cash and property transactions, a statement of compensation paid to the trustee and his or her agents, gains and losses, as well as receipts and disbursements. To the extent feasible, the accounting must identify and value trust assets and certain liabilities, receipts and disbursements, and a plan of distribution.⁷ It is the responsibility of the trustee of an irrevocable trust to provide an accounting annually and upon the termination of the trust.⁸

¹ Restatement (Third) Trusts, s. 3, (2003) Settlor, Trust Property, Trustee, and Beneficiary; BLACK’S LAW DICTIONARY (12th ed. 2024); 55A FLA. JUR 2D TRUSTS s. 114 *Trustees, Generally* (2024).

² 55A Fla. Jur 2d Trusts s. 114 and s. 736.0801, F.S.

³ Section 736.0802(1), F.S.

⁴ Section 736.0809, F.S.

⁵ Section 736.0810, F.S.

⁶ Section 736.0813, F.S.

⁷ Section 736.08135, F.S.

⁸ Section 736.0813(1)(d), F.S.

Ending the Trustee Relationship Through Resignation or Removal

A trustee may resign according to the terms established in the trust document and upon providing notice to the cotrustees or, if there are none, to the successor trustee, or if there is none, by giving notice to the person who has the authority to appoint a successor trustee. Additionally, a trustee may also resign by giving at least 30 days' notice to the qualified beneficiaries, the settlor, if he or she is living, and all cotrustees, or with approval of a court. When a trustee resigns with court approval, the court may issue orders and impose conditions that are reasonably necessary for the protection of the trust property.⁹ A settlor, cotrustee, or a beneficiary may request the court to remove a trustee or a trustee may be removed by the court upon the court's own initiative.¹⁰

When a Trustee is Discharged from Duty

When a trustee is discharged from the responsibilities of the trust, he or she is no longer responsible for the duties of administering the trust. Additionally, when the trustee is discharged, he or she is protected against future legal claims related to his or her actions while serving as trustee of the trust.

III. Effect of Proposed Changes:

The bill creates a summary procedure for a trustee of an irrevocable trust to be discharged of his or her duties and liabilities resulting from service as a trustee. The procedure avoids the need for court proceedings. However, if a beneficiary files a timely written objection, the process ends and the existing discharge proceedings must be followed.

When Discharge May Occur

A trustee who has substantially complied with his or her duties to may obtain a settlement of accounts and be discharged when either of the following occurs 6 months after the trustee accepted the responsibility to serve:

- The trust terminates, or
- A trustee resigns or is removed from the trust.

Trust Disclosure Document

A trustee who is seeking settlement of his or her accounts and to be discharged of his or her duties must send a trust disclosure document¹¹ to the qualified beneficiaries and any cotrustee as well as the immediate successor trustee if the trust is not terminating.

Contents

The trust disclosure document must contain the following:

- The trustee's name, mailing address, telephone number, and e-mail address.

⁹ Section 736.0705, F.S.

¹⁰ Section 736.0706, F.S.

¹¹ Section 736.1008(4)(c), F.S., provides that a trust disclosure document means a trust accounting or any other written report of the trustee or a trust director. It adequately discloses a matter if the document provides sufficient information so that a beneficiary knows of a claim or reasonably should have inquired into the existence of a claim with respect to that matter.

- A distribution plan which includes: a schedule of the trust's assets that are reasonably anticipated to be disbursed or distributed by the trustee; the amount of any debts, expenses, and taxes to be paid by the trustee; and any reasonable reserve to be held by the trustee.
- A trust accounting if the trustee's duty to provide an account has not been waived. The accounting must cover the time period for which an accounting has not been previously provided to the qualified beneficiaries of the trust.
- A statement that the trust has either terminated or that the trustee has resigned or been removed.
- A notice that contains substantially the following language in at least 12-point type:

“NOTICE: Any claim or cause of action you might have against the trustee arising from any matter disclosed in a trust disclosure document may be barred unless a written statement objecting is received by the trustee from you within 60 days after your receipt of this trust disclosure document and notice. If you have questions, please consult your attorney.”

Additional Responsibility to Notify

The trustee must also send the trust disclosure document to any person he or she reasonably believes would be affected by the trust disclosure document. The document and any objections must be sent in a manner authorized in s. 736.0109, F.S., except by posting on an electronic account or website.

When This Procedure May Not Be Used

If a trustee receives a written objection within 60 days after sending the trust disclosure document, this process does not result in the settlement of accounts or the discharge of the trustee's duties and liabilities. It is not necessary that the objection state the grounds on which the objection is based nor must the objection be in any particular form.

Discharge of the Trustee from Liability and Claims

If the trustee does not receive a timely written objection, he or she is discharged when all of the distributions or transfers are made in accordance with the plan of distribution. The trustee is discharged from all liability and claims that may arise from any matter that was adequately disclosed in the trust disclosure document, including a claim that he or she failed to provide information and accountings to beneficiaries as required by s. 736.0813, F.S. The discharge of the trustee's liability has the same effect as if a court had entered a final order approving that act or the omitted act.

Waiver of the Right to Object

A waiver of the right to object under this bill is treated as the expiration of the 60-day period without objection. Stated slightly differently, a beneficiary is considered to have approved the document unless his or her written objection is received by the trustee within the 60-day time frame.

Applicability

The act applies to all trusts that are irrevocable or become irrevocable on or after the effective date of the bill.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This summary procedure will likely reduce or avoid the cost for legal, accounting, and administrative fees currently associated with trust administrations. These savings will be passed on to trust beneficiaries who are currently required to absorb these costs in judicial proceedings.

C. Government Sector Impact:

Because this process does not involve a judicial proceeding, it will likely reduce the amount of time a judge and court staff would otherwise spend to discharge a trustee.

VI. Technical Deficiencies:

On line 31 the word “after” needs to be deleted as repetitious.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates s. 736.10081 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
