

By the Committee on Judiciary; and Senator Berman

590-02448-26

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A bill to be entitled

An act relating to trusts; creating s. 736.10081, F.S.; authorizing a trustee to obtain a settlement of his or her accounts and be discharged under certain circumstances; requiring a trustee seeking settlement and discharge to send a trust disclosure document to specified persons; requiring that certain information be included in the trust disclosure document; requiring that the trust disclosure document and any objections be sent with a certain notice; providing applicability; providing that an objection need not state the grounds for the objection; providing that a trustee is discharged upon completion of distributions or transfers if no timely written objections are received and is discharged from all liability and claims arising out of any matter disclosed in the trust disclosure document; providing that a waiver of the right to object is treated as an expiration of the timeframe to object; providing construction; providing applicability; providing an effective date.

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

Section 1. Section 736.10081, Florida Statutes, is created to read:

736.10081 Nonjudicial settlement and discharge of a trustee; disclosure; objections.-

(1) A trustee who is in substantial compliance with the duty to inform and account under s. 736.0813 may obtain a

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30 settlement of his or her accounts and be discharged pursuant to
31 this section when either of the following occurs 6 months after
32 the trustee's acceptance:

33 (a) The trust terminates.

34 (b) A trustee resigns or is removed from the trust.

35 (2) A trustee seeking settlement and discharge pursuant to
36 this section must send to the trust's qualified beneficiaries
37 and any cotrustee, and the immediate successor trustee if the
38 trust is not terminating, a trust disclosure document as defined
39 in s. 736.1008(4) which contains all of the following:

40 (a) The name, mailing address, telephone number, and e-mail
41 address of the trustee seeking discharge.

42 (b) A plan of distribution which includes all of the
43 following:

44 1. A schedule of the assets reasonably anticipated to be
45 disbursed or distributed by the trustee.

46 2. The amount of any debts, expenses, and taxes to be paid
47 by the trustee.

48 3. Any reasonable reserve to be held by the trustee.

49 (c) If the trustee's duty to account has not been waived, a
50 trust accounting as defined in s. 736.1008(4) for the period for
51 which an accounting has not been previously provided to the
52 qualified beneficiaries of the trust.

53 (d) A statement that the trust has terminated or that the
54 trustee has resigned or has been removed.

55 (e) A notice with substantially the following language in
56 at least 12-point type:

58 "NOTICE: Any claim or cause of action you might have

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59 against the trustee arising from any matter disclosed
60 in a trust disclosure document may be barred unless a
61 written statement objecting is received by the trustee
62 from you within 60 days after your receipt of this
63 trust disclosure document and notice. If you have
64 questions, please consult your attorney.”

65

66 (3) The trustee shall also send the trust disclosure
67 document described in subsection (2) to any other person whom
68 the trustee reasonably believes would be affected by the trust
69 disclosure document. The trust disclosure document and any
70 objections must be sent with the notice requirements of s.
71 736.0109, except that s. 736.0109(3) does not apply.

72 (4) This section does not apply if the trustee receives a
73 written objection within 60 days after sending the trust
74 disclosure document. An objection does not need to state the
75 grounds for the objection or be in any particular form.

76 (5) If the trustee does not receive a timely written
77 objection, the trustee is discharged upon completion of all
78 distributions or transfers in accordance with the plan of
79 distribution and is discharged from all liability and claims
80 arising from any matter adequately disclosed in the trust
81 disclosure document, including any claim that the trustee failed
82 to inform and account pursuant to s. 736.0813, with the same
83 effect as if the court had entered a final order approving that
84 act or omission.

85 (6) A waiver of the right to object pursuant to this
86 section is treated as the expiration of the 60-day period
87 without objection.

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88 (7) This section is in addition to, and not a replacement
89 of, rights of a trustee to otherwise settle the trustee's
90 accounts.

91 Section 2. This act applies to all trusts that are
92 irrevocable or become irrevocable on or after the effective date
93 of this act.

94 Section 3. This act shall take effect upon becoming a law.