

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:

57  
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.