

1 A bill to be entitled
2 An act relating to estates and trusts; amending s.
3 69.031, F.S.; providing that a court may order that
4 certain property be placed with a financial
5 institution during the administration of an estate;
6 providing that a court shall allow certain officers to
7 post and maintain a bond for the value of certain
8 property; amending s. 732.507, F.S.; providing that
9 certain provisions of a will are void upon dissolution
10 of marriage; specifying when dissolution of marriage
11 occurs; providing applicability; amending s. 736.0103,
12 F.S.; providing and revising definitions; amending s.
13 736.0105, F.S.; providing that terms of a trust
14 prevail over the Florida Probate Code except for
15 certain duties of a trustee which are subject to
16 certain provisions; amending s. 736.0201, F.S.;
17 providing that certain proceedings to determine the
18 homestead status of real property owned by a trust may
19 be filed in the probate proceeding for the settlor's
20 estate and shall be governed by the Florida Probate
21 Rules; amending s. 736.0603, F.S.; providing that a
22 trustee may follow a direction of a settlor that is
23 contrary to the terms of the trust in certain
24 circumstances; amending s. 736.0703, F.S.; revising
25 provisions relating to duties and liabilities of

26 | cotrustees; repealing s. 736.0808, F.S., relating to
27 | powers to direct; amending s. 736.1008, F.S.;
28 | providing that certain claims relating to trust
29 | disclosure documents are barred; amending s. 736.1017,
30 | F.S.; providing that a trustee may furnish to a person
31 | other than a beneficiary a certificate of trust
32 | containing certain information; amending s. 736.1105,
33 | F.S.; providing that the occurrence of certain
34 | conditions does not revoke a revocable trust;
35 | providing that certain provisions of a revocable trust
36 | are void upon dissolution of marriage; specifying when
37 | dissolution of marriage occurs; providing
38 | applicability; creating s. 736.1109, F.S.; providing
39 | for the descent of homestead property if a devise of
40 | homestead under a trust violates the State
41 | Constitution; providing that certain powers or
42 | directions within a trust instrument do not subject an
43 | interest in a protected homestead to certain claims,
44 | expenses, or obligations; providing that title to
45 | property that would otherwise qualify as protected
46 | homestead shall remain vested in the trustee in
47 | certain circumstances; providing applicability;
48 | creating part XIV of chapter 736, F.S., entitled the
49 | "Florida Uniform Directed Trust Act"; creating s.
50 | 736.1401, F.S.; providing a short title; creating s.

51 736.1403, F.S.; providing applicability; providing
52 that terms of a directed trust that designate the
53 state as the principal place of administration are
54 valid and controlling in certain circumstances;
55 creating s. 736.1405, F.S.; providing a definition;
56 providing that this part does not apply to certain
57 powers except in certain circumstances; creating s.
58 736.1406, F.S.; providing for certain powers of a
59 trust director; creating s. 736.1407, F.S.; providing
60 that a trust director is subject to the same rules as
61 a trustee in a like position under similar
62 circumstances in the exercise of certain powers;
63 creating 736.1408, F.S.; providing duties and
64 liabilities of a trust director with respect to
65 certain powers and in certain circumstances;
66 authorizing the imposition of additional duties and
67 liabilities; creating s. 736.1409, F.S.; providing
68 duties and liabilities of a directed trustee with
69 respect to compliance with a trust director's exercise
70 or nonexercise of certain powers; authorizing a
71 directed trustee to apply to a court for directions
72 and pay attorney costs and fees from trust assets in
73 certain circumstances; authorizing the imposition of
74 additional duties and liabilities; creating s.
75 736.141, F.S.; requiring a trustee to provide certain

76 information to a trust director; requiring a trust
77 director to provide certain information to a trustee
78 or another trust director and a qualified beneficiary;
79 providing that a trustee or a trust director acting in
80 reliance on certain information is not liable for a
81 breach of trust in certain circumstances; creating s.
82 736.1411, F.S.; providing that a trustee and a trust
83 director do not have certain duties unless the terms
84 of a trust provide otherwise; creating s. 736.1412,
85 F.S.; authorizing the terms of a trust to provide for
86 the appointment of more than one trustee with certain
87 powers; providing that trustees excluded from certain
88 powers shall act as directed trustees in certain
89 respects; providing liability and obligations of a
90 trustee or trustees with certain powers; creating s.
91 736.1413, F.S.; providing a limitations period for
92 certain actions commenced against a trust director;
93 creating s. 736.1414, F.S.; providing that a trust
94 director may assert the same defenses in an action as
95 a trustee in certain circumstances; creating s.
96 736.1415, F.S.; providing for personal jurisdiction in
97 the state over a trust director; creating s. 736.1416,
98 F.S.; providing that a trust director shall be
99 considered a trustee for the purposes of certain
100 provisions unless the terms of a trust provide

101 otherwise; authorizing certain persons to make a
102 written demand on a person designated to serve as a
103 trust director in certain circumstances; requiring the
104 designated trust director to respond in writing within
105 a certain period; creating part XV of chapter 736,
106 F.S., entitled the "Community Property Trust Act";
107 creating s. 736.1501, F.S.; providing a short title;
108 creating s. 736.1502, F.S.: providing definitions;
109 creating s. 736.1503, F.S.; providing that an
110 arrangement is a community property trust in certain
111 circumstances; creating s. 736.1504, F.S.; authorizing
112 settlor spouses to agree upon certain conditions in an
113 agreement establishing a community property trust;
114 providing that a community property trust may be
115 amended in certain circumstances; providing that the
116 settlor spouses are the only qualified beneficiaries
117 of a community property trust; creating s. 736.1505,
118 F.S.; providing that settlor spouses may classify any
119 property as community property by transferring that
120 property to a community property trust regardless of
121 domicile; providing for enforceability and duration of
122 a community property trust; providing that the right
123 to manage and control certain property is determined
124 by the terms of the trust agreement; providing the
125 effect of distributions from a community property

126 trust; creating s. 736.1506, F.S.; providing for the
127 satisfaction of obligations incurred by one or both
128 spouses from a community property trust; creating s.
129 736.1507, F.S.; providing for the disposition or
130 distribution of certain property upon the death of a
131 spouse; creating s. 736.1508, F.S.; providing for the
132 termination of a community property trust upon
133 dissolution of marriage; creating s. 736.1509, F.S.;
134 providing that a community property trust may not
135 adversely affect certain rights of a child; creating
136 s. 736.151, F.S.; providing that certain property held
137 in a community property trust qualifies as homestead
138 property; creating s. 736.1511, F.S.; providing for
139 the application of the Internal Revenue Code to a
140 community property trust; creating s. 736.1512, F.S.;
141 providing that a community property trust is not
142 enforceable in certain circumstances; amending ss.
143 736.0802, 736.08125, and 738.104, F.S.; conforming
144 cross-references; amending s. 744.3679, F.S.;
145 conforming a provision to changes made by the act;
146 providing a directive to the Division of Law Revision;
147 providing for severability; providing effective dates.

148

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

150

151 Section 1. Effective upon this act becoming a law, section
152 69.031, Florida Statutes, is amended to read:

153 69.031 Designated financial institutions for property
154 ~~assets~~ in hands of guardians, curators, administrators,
155 trustees, receivers, or other officers.—

156 (1) When it is expedient in the judgment of any court
157 having jurisdiction of any estate in process of administration
158 by any guardian, curator, executor, administrator, trustee,
159 receiver, or other officer, because the size of the bond
160 required of the officer is burdensome or for other cause, the
161 court may order part or all of the personal property ~~assets~~ of
162 the estate placed with a bank, trust company, or savings and
163 loan association (which savings and loan association is a member
164 of the Federal Savings and Loan Insurance Corporation and doing
165 business in this state) designated by the court, consideration
166 being given to any bank, trust company or savings and loan
167 association proposed by the officer. Notwithstanding the
168 foregoing, in probate proceedings and in accordance with s.
169 733.402, the court shall allow the officer at any time to elect
170 to post and maintain bond for the value of the personal
171 property, or such other reasonable amount determined by the
172 court, whereupon the court shall vacate or terminate any order
173 establishing the depository. When the property is ~~assets are~~
174 placed with the designated financial institution, it shall file
175 a receipt therefor in the name of the estate and give the

176 officer a copy. Such receipt shall acknowledge the property
177 ~~assets~~ received by the financial institution. All interest,
178 dividends, principal and other debts collected by the financial
179 institution on account thereof shall be held by the financial
180 institution in safekeeping, subject to the instructions of the
181 officer authorized by order of the court directed to the
182 financial institution.

183 (2) Accountings shall be made to the officer at reasonably
184 frequent intervals. After the receipt for the original property
185 ~~assets~~ has been filed by the financial institution, the court
186 shall waive the bond given or to be given or reduce it so that
187 it shall apply only to the estate remaining in the hands of the
188 officer, whichever the court deems proper.

189 (3) When the court has ordered any property assets of an
190 estate to be placed with a designated financial institution, any
191 person or corporation having possession or control of any of the
192 property assets, or owing interest, dividends, principal or
193 other debts on account thereof, shall pay and deliver such
194 property assets, interest, dividends, principal and other debts
195 to the financial institution on its demand whether the officer
196 has duly qualified or not, and the receipt of the financial
197 institution relieves the person or corporation from further
198 responsibility therefor.

199 (4) Any bank, trust company, or savings and loan
200 association which is designated under this section, may accept

201 or reject the designation in any instance, and shall file its
202 acceptance or rejection with the court making the designation
203 within 15 days after actual knowledge of the designation comes
204 to the attention of the financial institution, and if the
205 financial institution accepts, it shall be allowed a reasonable
206 amount for its services and expenses which the court may allow
207 as a charge against the property ~~assets~~ placed with the
208 financial institution.

209 Section 2. Effective upon this act becoming a law, section
210 732.507, Florida Statutes, is amended to read:

211 732.507 Effect of subsequent marriage, birth, adoption, or
212 dissolution of marriage.—

213 (1) Neither subsequent marriage, birth, nor adoption of
214 descendants shall revoke the prior will of any person, but the
215 pretermitted child or spouse shall inherit as set forth in ss.
216 732.301 and 732.302, regardless of the prior will.

217 (2) Any provision of a will ~~executed by a married person~~
218 that affects the testator's spouse ~~is of that person shall~~
219 ~~become~~ void upon dissolution of the marriage of the testator and
220 the spouse, whether the marriage occurred before or after the
221 execution of such will. Upon dissolution of marriage ~~the divorcee~~
222 ~~of that person or upon the dissolution or annulment of the~~
223 ~~marriage. After the dissolution, divorce, or annulment, the will~~
224 shall be ~~administered and~~ construed as if the ~~former~~ spouse ~~had~~
225 died at the time of the dissolution of marriage, divorce, or

226 ~~annulment of the marriage, unless the will or the dissolution or~~
227 ~~divorce judgment expressly provides otherwise.~~

228 (a) Dissolution of marriage occurs at the time the
229 decedent's marriage is judicially dissolved or declared invalid
230 by court order.

231 (b) This subsection does not invalidate a provision of a
232 will:

233 1. Executed by the testator after the dissolution of the
234 marriage;

235 2. If there is a specific intention to the contrary stated
236 in the will; or

237 3. If the dissolution of marriage judgment expressly
238 provides otherwise.

239 (3) This section applies to wills of decedents who die on
240 or after the effective date of this section.

241 Section 3. Subsections (6) through (13), (14) through
242 (20), and (22) and (23) of section 736.0103, Florida Statutes,
243 are renumbered as subsections (8) through (15), (17) through
244 (23), and (26) and (27), respectively, present subsection (21)
245 is amended, and new subsections (6), (7), (16), and (25) are
246 added to that section, to read:

247 736.0103 Definitions.—Unless the context otherwise
248 requires, in this code:

249 (6) "Directed trust" means a trust for which the terms of
250 the trust grant a power of direction.

251 (7) "Directed trustee" means a trustee that is subject to
252 a trust director's power of direction.

253 (16) "Power of direction" means a power over a trust
254 granted to a person by the terms of the trust to the extent the
255 power is exercisable while the person is not serving as a
256 trustee. The term includes a power over the investment,
257 management, or distribution of trust property, a power to amend
258 a trust instrument or terminate a trust, or a power over other
259 matters of trust administration. The term excludes the powers
260 listed in s. 736.1405(2).

261 (24)-(21)- "Terms of a trust" means:

262 (a) Except as otherwise provided in paragraph (b), the
263 manifestation of the settlor's intent regarding a trust's
264 provisions as:

265 1. Expressed in the trust instrument; or
266 2. Established by other evidence that would be admissible
267 in a judicial proceeding; or

268 (b) The trust's provisions as established, determined, or
269 amended by:

270 1. A trustee or trust director in accordance with
271 applicable law;
272 2. Court order; or
273 3. A nonjudicial settlement agreement under s. 736.0111
274 the manifestation of the settlor's intent regarding a trust's
275 provisions as expressed in the trust instrument or as may be

276 ~~established by other evidence that would be admissible in a~~
277 ~~judicial proceeding.~~

278 (25) "Trust director" means a person who is granted a
279 power of direction by the terms of a trust to the extent the
280 power is exercisable while the person is not serving as a
281 trustee. The person is a trust director whether or not the terms
282 of the trust refer to the person as a trust director and whether
283 or not the person is a beneficiary or settlor of the trust.

284 Section 4. Paragraph (b) of subsection (2) of section
285 736.0105, Florida Statutes, is amended to read:

286 736.0105 Default and mandatory rules.—

287 (2) The terms of a trust prevail over any provision of
288 this code except:

289 (b) Subject to ss. 736.1409, 736.1411, and 736.1412, the
290 duty of the trustee to act in good faith and in accordance with
291 the terms and purposes of the trust and the interests of the
292 beneficiaries.

293 Section 5. Subsection (1) of section 736.0201, Florida
294 Statutes, is amended and subsection (7) is added to that section
295 to read:

296 736.0201 Role of court in trust proceedings.—

297 (1) Except as provided in subsections (5), and (6), and
298 (7) and s. 736.0206, judicial proceedings concerning trusts
299 shall be commenced by filing a complaint and shall be governed
300 by the Florida Rules of Civil Procedure.

301 (7) A proceeding to determine the homestead status of real
 302 property owned by a trust may be filed in the probate proceeding
 303 for the settlor's estate if the settlor was treated as the owner
 304 of the interest held in the trust under s. 732.4015. The
 305 proceeding shall be governed by the Florida Probate Rules.

306 Section 6. Subsection (3) is added to section 736.0603,
 307 Florida Statutes, to read:

308 736.0603 Settlor's powers; powers of withdrawal.—

309 (3) Subject to ss. 736.0403(2) and 736.0602(3) (a), the
 310 trustee may follow a direction of the settlor that is contrary
 311 to the terms of the trust while a trust is revocable.

312 Section 7. Subsections (3), (7), and (9) of section
 313 736.0703, Florida Statutes, are amended to read:

314 736.0703 Cotrustees.—

315 (3) Subject to s. 736.1412, a cotrustee must participate
 316 in the performance of a trustee's function unless the cotrustee
 317 is unavailable to perform the function because of absence,
 318 illness, disqualification under other provision of law, or other
 319 temporary incapacity or the cotrustee has properly delegated the
 320 performance of the function to another cotrustee.

321 (7) Except as otherwise provided in s. 736.1412 ~~subsection~~
 322 ~~(9)~~, each cotrustee shall exercise reasonable care to:

323 (a) Prevent a cotrustee from committing a breach of trust.

324 (b) Compel a cotrustee to redress a breach of trust.

325 ~~(9) If the terms of a trust provide for the appointment of~~

326 ~~more than one trustee but confer upon one or more of the~~
327 ~~trustees, to the exclusion of the others, the power to direct or~~
328 ~~prevent specified actions of the trustees, the excluded trustees~~
329 ~~shall act in accordance with the exercise of the power. Except~~
330 ~~in cases of willful misconduct on the part of the excluded~~
331 ~~trustee, an excluded trustee is not liable, individually or as a~~
332 ~~fiduciary, for any consequence that results from compliance with~~
333 ~~the exercise of the power. An excluded trustee does not have a~~
334 ~~duty or an obligation to review, inquire, investigate, or make~~
335 ~~recommendations or evaluations with respect to the exercise of~~
336 ~~the power. The trustee or trustees having the power to direct or~~
337 ~~prevent actions of the excluded trustees shall be liable to the~~
338 ~~beneficiaries with respect to the exercise of the power as if~~
339 ~~the excluded trustees were not in office and shall have the~~
340 ~~exclusive obligation to account to and to defend any action~~
341 ~~brought by the beneficiaries with respect to the exercise of the~~
342 ~~power. The provisions of s. 736.0808(2) do not apply if the~~
343 ~~person entrusted with the power to direct the actions of the~~
344 ~~excluded trustee is also a cotrustee.~~

345 Section 8. Section 736.0808, Florida Statutes, is
346 repealed.

347 Section 9. Subsection (7) of section 736.1008, Florida
348 Statutes, is renumbered as subsection (8), paragraph (a) of
349 subsection (1), subsection (2), and paragraphs (a) and (c) of
350 subsection (4) are amended, and new subsection (7) is added to

351 that section, to read:

352 736.1008 Limitations on proceedings against trustees.—

353 (1) Except as provided in subsection (2), all claims by a
354 beneficiary against a trustee for breach of trust are barred as
355 provided in chapter 95 as to:

356 (a) All matters adequately disclosed in a trust disclosure
357 document issued by the trustee or a trust director, with the
358 limitations period beginning on the date of receipt of adequate
359 disclosure.

360 (2) Unless sooner barred by adjudication, consent, or
361 limitations, a beneficiary is barred from bringing an action
362 against a trustee for breach of trust with respect to a matter
363 that was adequately disclosed in a trust disclosure document
364 unless a proceeding to assert the claim is commenced within 6
365 months after receipt from the trustee or a trust director of the
366 trust disclosure document or a limitation notice that applies to
367 that disclosure document, whichever is received later.

368 (4) As used in this section, the term:

369 (a) "Trust disclosure document" means a trust accounting
370 or any other written report of the trustee or a trust director.
371 A trust disclosure document adequately discloses a matter if the
372 document provides sufficient information so that a beneficiary
373 knows of a claim or reasonably should have inquired into the
374 existence of a claim with respect to that matter.

375 (c) "Limitation notice" means a written statement of the

376 trustee or a trust director that an action by a beneficiary
377 ~~against the trustee~~ for breach of trust based on any matter
378 adequately disclosed in a trust disclosure document may be
379 barred unless the action is commenced within 6 months after
380 receipt of the trust disclosure document or receipt of a
381 limitation notice that applies to that trust disclosure
382 document, whichever is later. A limitation notice may but is not
383 required to be in the following form: "An action for breach of
384 trust based on matters disclosed in a trust accounting or other
385 written report of the trustee or a trust director may be subject
386 to a 6-month statute of limitations from the receipt of the
387 trust accounting or other written report. If you have questions,
388 please consult your attorney."

389 (7) Any claim barred against a trustee or trust director
390 under this section is also barred against the directors,
391 officers, and employees acting for the trustee.

392 Section 10. Paragraphs (e), (f), and (g) of subsection (1)
393 of section 736.1017, Florida Statutes, are redesignated as
394 paragraphs (f), (g), and (h), respectively, and new paragraph
395 (e) is added to that subsection, to read:

396 736.1017 Certification of trust.—

397 (1) Instead of furnishing a copy of the trust instrument
398 to a person other than a beneficiary, the trustee may furnish to
399 the person a certification of trust containing the following
400 information:

401 (e) Whether the trust contains any powers of direction,
402 and if so, the identity of the current trust directors, the
403 trustee powers subject to a power of direction, and whether the
404 trust directors have directed or authorized the trustee to
405 engage in the proposed transaction for which the certification
406 of trust was issued.

407 Section 11. Effective upon this act becoming a law,
408 section 736.1105, Florida Statutes, is amended to read:

409 (Substantial rewording of section. See
410 s. 736.1105, F.S., for present text.)

411 736.1105 Effect of subsequent marriage, birth, adoption,
412 or dissolution of marriage.—

413 (1) Neither subsequent marriage, birth, nor adoption of
414 descendants shall revoke the revocable trust of any person.

415 (2) Any provision of a revocable trust that affects the
416 settlor's spouse is void upon dissolution of the marriage of the
417 settlor and the spouse, whether the marriage occurred before or
418 after the execution of such revocable trust. Upon dissolution of
419 marriage, the revocable trust shall be construed as if the
420 spouse had died at the time of the dissolution of marriage.

421 (a) Dissolution of marriage occurs at the time the
422 decendent's marriage is judicially dissolved or declared invalid
423 by court order.

424 (b) This subsection does not invalidate a provision of a
425 revocable trust:

426 1. Executed by the settlor after the dissolution of the
427 marriage;

428 2. If there is a specific intention to the contrary stated
429 in the revocable trust; or

430 3. If the dissolution of marriage judgment expressly
431 provides otherwise.

432 (3) This section applies to revocable trusts of decedents
433 who die on or after the effective date of this section.

434 Section 12. Section 736.1109, Florida Statutes, is created
435 to read:

436 736.1109 Testamentary and revocable trusts; homestead
437 protections.—

438 (1) If a devise of homestead under a trust violates the
439 limitations on the devise of homestead in s. 4(c), Art. X of the
440 State Constitution, title shall pass as provided in s. 732.401
441 at the moment of death.

442 (2) A power of sale or general direction to pay debts,
443 expenses and claims within the trust instrument does not subject
444 an interest in the protected homestead to the claims of
445 decedent's creditors, expenses of administration, and
446 obligations of the decedent's estate as provided in s.
447 736.05053.

448 (3) If a trust directs the sale of property that would
449 otherwise qualify as protected homestead, and the property is
450 not subject to the constitutional limitations on the devise of

451 homestead under the Florida Constitution, title shall remain
 452 vested in the trustee and subject to the provisions of the
 453 trust.

454 (4) This section applies only to trusts described in s.
 455 733.707(3) and to testamentary trusts.

456 (5) This section is intended to clarify existing law and
 457 applies to the administration of trusts and estates of decedents
 458 who die before, on, or after July 1, 2021.

459 Section 13. Part XIV of chapter 736, Florida Statutes,
 460 consisting of ss. 736.1401-736.1416, Florida Statutes, is
 461 created and entitled the "Florida Uniform Directed Trust Act."

462 Section 14. Section 736.1401, Florida Statutes, is created
 463 to read:

464 736.1401 Short title.—This part may be cited as the
 465 "Florida Uniform Directed Trust Act."

466 Section 15. Section 736.1403, Florida Statutes, is created
 467 to read:

468 736.1403 Application; principal place of administration.—

469 (1) This part applies to a trust subject to this chapter,
 470 whenever created, that has its principal place of administration
 471 in the state, subject to the following rules:

472 (a) If the trust was created before July 1, 2021, this
 473 part applies only to a decision or action occurring on or after
 474 July 1, 2021.

475 (b) If the principal place of administration of the trust

476 is changed to the state on or after July 1, 2021, this part
477 applies only to a decision or action occurring on or after the
478 date of the change.

479 (2) In addition to the provisions of s. 736.0108, in a
480 directed trust, terms of the trust that designate the principal
481 place of administration of the trust in the state are valid and
482 controlling if a trust director's principal place of business is
483 located in or a trust director is a resident of the state.

484 Section 16. Section 736.1405, Florida Statutes, is created
485 to read:

486 736.1405 Exclusions.—

487 (1) As used in this section, the term "power of
488 appointment" means a power that enables a person acting in a
489 nonfiduciary capacity to designate a recipient of an ownership
490 interest in or another power of appointment over trust property.

491 (2) Unless the terms of a trust expressly provide
492 otherwise by specific reference to this part, section, or
493 paragraph, this part does not apply to:

494 (a) A power of appointment;

495 (b) A power to appoint or remove a trustee or trust
496 director;

497 (c) A power of a settlor over a trust while the trust is
498 revocable by that settlor;

499 (d) A power of a beneficiary over a trust to the extent
500 the exercise or nonexercise of the power affects the beneficial

501 interest of:

502 1. The beneficiary; or

503 2. Another beneficiary represented by the beneficiary
 504 under ss. 736.0301-736.0305 with respect to the exercise or
 505 nonexercise of the power;

506 (e) A power over a trust if the terms of the trust provide
 507 that the power is held in a nonfiduciary capacity; and

508 1. The power must be held in a nonfiduciary capacity to
 509 achieve the settlor's tax objectives under the United States
 510 Internal Revenue Code of 1986, as amended, and regulations
 511 issued thereunder, as amended; or

512 2. It is a power to reimburse the settlor for all or a part
 513 of the settlor's income tax liabilities attributable to the
 514 income of the trust; or

515 (f) A power to add or to release a power under the trust
 516 instrument if the power subject to addition or release causes
 517 the settlor to be treated as the owner of all or any portion of
 518 the trust for federal income tax purposes.

519 (3) Unless the terms of a trust provide otherwise, a power
 520 granted to a person other than a trustee:

521 (a) To designate a recipient of an ownership interest in
 522 trust property, including a power to terminate a trust, is a
 523 power of appointment and not a power of direction.

524 (b) To create, modify, or terminate a power of
 525 appointment, is a power of direction and not a power of

526 appointment, except a power to create a power of appointment
527 that is an element of a broader power to affect an ownership
528 interest in trust property beyond the mere creation of a power
529 of appointment, such as a power to appoint trust property in
530 further trust, is a power of appointment and not a power of
531 direction.

532 Section 17. Section 736.1406, Florida Statutes, is created
533 to read:

534 736.1406 Power of trust director.—

535 (1) Subject to s. 736.1407, the terms of a trust may grant
536 a power of direction to a trust director.

537 (2) A power of direction includes only those powers
538 granted by the terms of the trust.

539 (3) Unless the terms of a trust provide otherwise:

540 (a) A trust director may exercise any further power
541 appropriate to the exercise or nonexercise of a power of
542 direction granted to the trust director under subsection (1);
543 and

544 (b) Trust directors with joint powers must act by majority
545 decision.

546 Section 18. Section 736.1407, Florida Statutes, is created
547 to read:

548 736.1407 Limitations on trust director.—A trust director
549 is subject to the same rules as a trustee in a like position and
550 under similar circumstances in the exercise or nonexercise of a

551 power of direction or further power under s. 736.1406(3) (a)
552 regarding:

553 (1) A payback provision in the terms of a trust necessary
554 to comply with the reimbursement requirements of s. 1917 of the
555 Social Security Act, 42 U.S.C. s. 1396p(d) (4) (A), as amended,
556 and regulations issued thereunder, as amended.

557 (2) A charitable interest in the trust, including notice
558 regarding the interest to the Attorney General.

559 Section 19. Section 736.1408, Florida Statutes, is created
560 to read:

561 736.1408 Duty and liability of trust director.—

562 (1) Subject to subsection (2), with respect to a power of
563 direction or further power under s. 736.1406(3) (a):

564 (a) A trust director has the same fiduciary duty and
565 liability in the exercise or nonexercise of the power:

566 1. If the power is held individually, as a sole trustee in
567 a like position and under similar circumstances; or

568 2. If the power is held jointly with a trustee or another
569 trust director, as a cotrustee in a like position and under
570 similar circumstances.

571 (b) The terms of the trust may vary the trust director's
572 duty or liability to the same extent the terms of the trust may
573 vary the duty or liability of a trustee in a like position and
574 under similar circumstances.

575 (2) Unless the terms of a trust provide otherwise, if a

576 trust director is licensed, certified, or otherwise authorized
577 or permitted by law other than this part to provide health care
578 in the ordinary course of the trust director's business or
579 practice of a profession, to the extent the trust director acts
580 in that capacity the trust director has no duty or liability
581 under this part.

582 (3) The terms of a trust may impose a duty or liability on
583 a trust director in addition to the duties and liabilities under
584 this section.

585 Section 20. Section 736.1409, Florida Statutes, is created
586 to read:

587 736.1409 Duty and liability of directed trustee.—

588 (1) Subject to subsection (2), a directed trustee shall
589 take reasonable action to comply with a trust director's
590 exercise or nonexercise of a power of direction or further power
591 under s. 736.1406(3) (a) and the trustee is not liable for such
592 reasonable action.

593 (2) A directed trustee may not comply with a trust
594 director's exercise or nonexercise of a power of direction or
595 further power under s. 736.1406(3) (a) to the extent that by
596 complying the trustee would engage in willful misconduct.

597 (3) Before complying with a trust director's exercise of a
598 power of direction, the directed trustee shall determine whether
599 or not the exercise is within the scope of the trust director's
600 power of direction. The exercise of a power of direction is not

601 outside the scope of a trust director's power of direction
602 merely because the exercise constitutes or may constitute a
603 breach of trust.

604 (4) An exercise of a power of direction under which a
605 trust director may release a trustee or another trust director
606 from liability for breach of trust is not effective if:

607 (a) The breach involved the trustee's or other director's
608 willful misconduct;

609 (b) The release was induced by improper conduct of the
610 trustee or other director in procuring the release; or

611 (c) At the time of the release, the trust director did not
612 know the material facts relating to the breach.

613 (5) A directed trustee that has reasonable doubt about its
614 duty under this section may apply to the court for instructions,
615 with attorney fees and costs to be paid from assets of the trust
616 as provided in this code.

617 (6) The terms of a trust may impose a duty or liability on
618 a directed trustee in addition to the duties and liabilities
619 under this part.

620 Section 21. Section 736.141, Florida Statutes, is created
621 to read:

622 736.141 Duty to provide information.—

623 (1) Subject to s. 736.1411, a trustee shall provide
624 information to a trust director to the extent the information is
625 reasonably related to the powers or duties of the trust

626 director.

627 (2) Subject to s. 736.1411, a trust director shall provide
 628 information to a trustee or another trust director to the extent
 629 the information is reasonably related to the powers or duties of
 630 the trustee or other trust director.

631 (3) A trustee that acts in reliance on information
 632 provided by a trust director is not liable for a breach of trust
 633 to the extent the breach resulted from the reliance, unless by
 634 so acting the trustee engages in willful misconduct.

635 (4) A trust director that acts in reliance on information
 636 provided by a trustee or another trust director is not liable
 637 for a breach of trust to the extent the breach resulted from the
 638 reliance, unless by so acting the trust director engages in
 639 willful misconduct.

640 (5) A trust director shall provide information within the
 641 trust director's knowledge or control to a qualified beneficiary
 642 upon a written request of a qualified beneficiary to the extent
 643 the information is reasonably related to the powers or duties of
 644 the trust director.

645 Section 22. Section 736.1411, Florida Statutes, is created
 646 to read:

647 736.1411 No duty to monitor, inform, or advise.—

648 (1) Notwithstanding s. 736.1409(1), unless the terms of a
 649 trust provide otherwise:

650 (a) A trustee does not have a duty to:

651 1. Monitor a trust director; or
 652 2. Inform or give advice to a settlor, beneficiary,
 653 trustee, or trust director concerning an instance in which the
 654 trustee might have acted differently than the trust director.

655 (b) By taking an action described in paragraph (a), a
 656 trustee does not assume the duty excluded by paragraph (a).

657 (2) Notwithstanding s. 736.1408(1), unless the terms of a
 658 trust provide otherwise:

659 (a) A trust director does not have a duty to:

660 1. Monitor a trustee or another trust director; or
 661 2. Inform or give advice to a settlor, beneficiary,
 662 trustee, or another trust director concerning an instance in
 663 which the trust director might have acted differently than a
 664 trustee or another trust director.

665 (b) By taking an action described in paragraph (a), a
 666 trust director does not assume the duty excluded by paragraph

667 (a).

668 Section 23. Section 736.1412, Florida Statutes, is created
 669 to read:

670 736.1412 Application to cotrustee.—

671 (1) The terms of a trust may provide for the appointment
 672 of more than one trustee but confer upon one or more of the
 673 trustees, to the exclusion of the others, the power to direct or
 674 prevent specified actions of the trustees.

675 (2) The excluded trustees shall act in accordance with the

676 exercise of the power in the manner, and with the same duty and
677 liability, as directed trustees with respect to a trust
678 director's power of direction under ss. 736.1409, 736.141, and
679 736.1411.

680 (3) The trustee or trustees having the power to direct or
681 prevent actions of the excluded trustees shall be liable to the
682 beneficiaries with respect to the exercise of the power as if
683 the excluded trustees were not in office and shall have the
684 exclusive obligation to account to and to defend any action
685 brought by the beneficiaries with respect to the exercise of the
686 power.

687 Section 24. Section 736.1413, Florida Statutes, is created
688 to read:

689 736.1413 Limitation of action against trust director.—

690 (1) An action against a trust director for breach of trust
691 must be commenced within the same limitation period as under s.
692 736.1008 in an action for breach of trust against a trustee in a
693 like position and under similar circumstances.

694 (2) A trust accounting or any other written report of a
695 trustee or a trust director has the same effect on the
696 limitation period for an action against a trust director for
697 breach of trust that such trust accounting or written report
698 would have under s. 736.1008 in an action for breach of trust
699 against a trustee in a like position and under similar
700 circumstances.

701 Section 25. Section 736.1414, Florida Statutes, is created
 702 to read:

703 736.1414 Defenses in action against trust director.-In an
 704 action against a trust director for breach of trust, the trust
 705 director may assert the same defenses a trustee in a like
 706 position and under similar circumstances could assert in an
 707 action for breach of trust against the trustee.

708 Section 26. Section 736.1415, Florida Statutes, is created
 709 to read:

710 736.1415 Jurisdiction over trust director.-

711 (1) By accepting appointment as a trust director of a
 712 trust subject to this part, the trust director submits to the
 713 personal jurisdiction of the courts of the state regarding any
 714 matter related to a power or duty of the trust director.

715 (2) This section does not preclude other methods of
 716 obtaining jurisdiction over a trust director.

717 Section 27. Section 736.1416, Florida Statutes, is created
 718 to read:

719 736.1416 Office of trust director.-

720 (1) Unless the terms of a trust provide otherwise, a trust
 721 director shall be considered a trustee for purposes of the
 722 following:

723 (a) Role of court under s. 736.0201.

724 (b) Proceedings for review of employment of agents and
 725 review of compensation of trustee and employees of a trust under

726 | s. 736.0206.
 727 | (c) Representation by holder of power of appointment under
 728 | s. 736.0302(4).
 729 | (d) Designated representative under s. 736.0306(2).
 730 | (e) Requirements for creation of a trust under s.
 731 | 736.0402(3).
 732 | (f) As to allowing application by the trust director for
 733 | judicial modification, construction, or termination under s.
 734 | 736.04113, s. 736.04114, s. 736.04115, or s. 736.0414(2) if the
 735 | trust director is so authorized by the terms of the trust.
 736 | (g) Discretionary trusts and the effect of a standard
 737 | under s. 736.0504.
 738 | (h) Creditors' claims against settlor under s.
 739 | 736.0505(1)(c).
 740 | (i) Trustee's duty to pay expenses and obligations of a
 741 | settlor's estate under s. 736.05053(4).
 742 | (j) Acceptance or declination under s. 736.0701.
 743 | (k) Giving of bond to secure performance under s.
 744 | 736.0702.
 745 | (l) Vacancy and appointment of successor under s.
 746 | 736.0704.
 747 | (m) Resignation under s. 736.0705.
 748 | (n) Removal under s. 736.0706, but not to give the trust
 749 | director the power to request removal of a trustee.
 750 | (o) Reasonable compensation under s. 736.0708.

- 751 (p) Reimbursement of expenses under s. 736.0709.
- 752 (q) Payment of costs or attorney fees under s.
753 736.0802(10), if the trust director has a power of direction, or
754 a further power to direct, the payment of such costs or attorney
755 fees under s. 736.1406(2) or (3) (a).
- 756 (r) Discretionary power and tax savings provisions under
757 s. 736.0814.
- 758 (s) Administration pending outcome of contest or other
759 proceeding under s. 736.08165.
- 760 (t) Applicability of chapter 518 under s. 736.0901.
- 761 (u) Nonapplication of prudent investor rule under s.
762 736.0902.
- 763 (v) Remedies for breach of trust under s. 736.1001.
- 764 (w) Damages for breach of trust under s. 736.1002.
- 765 (x) Damages in absence of breach under s. 736.1003.
- 766 (y) Attorney's fees and costs under s. 736.1004.
- 767 (z) Trustee's attorney fees under s. 736.1007(5), (6), and
768 (7).
- 769 (aa) Reliance on a trust instrument under s. 736.1009.
- 770 (bb) Events affecting administration under s. 736.1010.
- 771 (cc) Exculpation under s. 736.1011.
- 772 (dd) Beneficiary's consent, release, or ratification under
773 s. 736.1012.
- 774 (ee) Limitations on actions against certain trusts under
775 s. 736.1014.

776 (2) If a person has not accepted a trust directorship
777 under the terms of the trust or under s. 736.0701 or a trustee,
778 settlor, or a qualified beneficiary of the trust is uncertain
779 whether such acceptance has occurred, a trustee, settlor, or a
780 qualified beneficiary of the trust may make a written demand on
781 a person designated to serve as a trust director, with a written
782 copy to the trustees, to accept or confirm prior acceptance of
783 the trust directorship in writing. A written acceptance, written
784 acknowledgment of prior acceptance, or written declination of
785 the trust directorship shall be delivered by the designated
786 trust director within 60 days after receipt of such demand to
787 all trustees, qualified beneficiaries, and the settlor if
788 living.

789 Section 28. Part XV of chapter 736, Florida Statutes,
790 consisting of ss. 736.1501-736.1512, Florida Statutes, is
791 created and entitled the "Community Property Trust Act."

792 Section 29. Section 736.1501, Florida Statutes, is created
793 to read:

794 736.1501 Short title.—This part may be cited as the
795 "Community Property Trust Act."

796 Section 30. Section 736.1502, Florida Statutes, is created
797 to read:

798 736.1502 Definitions.—Unless the context otherwise
799 requires, as used in this part:

800 (1) "Community property" means the property and the

801 appreciation of and income from the property owned by a
802 qualified trustee of a community property trust during the
803 marriage of the settlor spouses. The property owned by a
804 community property trust pursuant to this part and the
805 appreciation of and income from such property shall be deemed to
806 be community property for purposes of general law.

807 (2) "Community property trust" means an express trust that
808 complies with s. 736.1503 and is created on or after July 1,
809 2021.

810 (3) "Decree" means a judgment or other order of a court of
811 competent jurisdiction.

812 (4) "Dissolution" means either:

813 (a) Termination of a marriage by a decree of dissolution,
814 divorce, annulment or declaration of invalidity; or

815 (b) Entry of a decree of legal separation maintenance.

816 (5) "During marriage" means a period that begins at
817 marriage and ends upon the dissolution of marriage or upon the
818 death of a spouse.

819 (6) "Qualified trustee" means either:

820 (a) A natural person who is a resident of the state; or

821 (b) A company authorized to act as a trustee in the state.

822
823 A qualified trustee's powers include, but are not limited to,
824 maintaining records for the trust on an exclusive or a
825 nonexclusive basis and preparing or arranging for the

826 preparation of, on an exclusive or a nonexclusive basis, any
 827 income tax returns that must be filed by the trust.

828 (7) "Settlor spouses" means a married couple who establish
 829 a community property trust pursuant to this part.

830 Section 31. Section 736.1503, Florida Statutes, is created
 831 to read:

832 736.1503 Requirements for community property trust.—An
 833 arrangement is a community property trust if one or both settlor
 834 spouses transfer property to a trust that:

835 (1) Expressly declares that the trust is a community
 836 property trust within the meaning of this part.

837 (2) Has at least one trustee who is a qualified trustee,
 838 provided that both spouses or either spouse also may be a
 839 trustee.

840 (3) Is signed by both settlor spouses consistent with the
 841 formalities required for the execution of a trust under this
 842 chapter.

843 (4) Contains substantially the following language in
 844 capital letters at the beginning of the community property trust
 845 agreement:

846
 847 THE CONSEQUENCES OF THIS COMMUNITY PROPERTY TRUST MAY
 848 BE VERY EXTENSIVE, INCLUDING, BUT NOT LIMITED TO, YOUR
 849 RIGHTS WITH RESPECT TO CREDITORS AND OTHER THIRD
 850 PARTIES, AND YOUR RIGHTS WITH YOUR SPOUSE DURING THE

851 COURSE OF YOUR MARRIAGE, AT THE TIME OF A DIVORCE, AND
852 UPON THE DEATH OF YOU OR YOUR SPOUSE. ACCORDINGLY,
853 THIS TRUST AGREEMENT SHOULD ONLY BE SIGNED AFTER
854 CAREFUL CONSIDERATION. IF YOU HAVE ANY QUESTIONS ABOUT
855 THIS TRUST AGREEMENT, YOU SHOULD SEEK COMPETENT AND
856 INDEPENDENT LEGAL ADVICE.

857 Section 32. Section 736.1504, Florida Statutes, is created
858 to read:

859 736.1504 Agreement establishing community property trust;
860 amendments and revocation.—

861 (1) In the agreement establishing a community property
862 trust, the settlor spouses may agree upon:

863 (a) The rights and obligations in the property transferred
864 to the trust, notwithstanding when and where the property is
865 acquired or located.

866 (b) The management and control of the property transferred
867 into the trust.

868 (c) The disposition of the property transferred to the
869 trust on dissolution, death, or the occurrence or nonoccurrence
870 of another event, subject to ss. 736.1507 and 736.1508.

871 (d) Whether the trust is revocable or irrevocable.

872 (e) Any other matter that affects the property transferred
873 to the trust and does not violate public policy or general law
874 imposing a criminal penalty, or result in the property not being
875 treated as community property under the laws of any

876 | jurisdiction.

877 | (2) In the event of the death of a settlor spouse, the
 878 | surviving spouse may amend a community property trust regarding
 879 | the disposition of that spouse's one-half share of the community
 880 | property, regardless of whether the agreement provides that the
 881 | community property trust is irrevocable.

882 | (3) A community property trust may be amended or revoked
 883 | by the settlor spouses unless the agreement itself specifically
 884 | provides that the community property trust is irrevocable.

885 | (4) Notwithstanding any other provision of this code, the
 886 | settlor spouses shall be deemed to be the only qualified
 887 | beneficiaries of a community property trust until the death of
 888 | one of the settlor spouses, regardless of whether the trust is
 889 | revocable or irrevocable. After the death of one of the settlor
 890 | spouses, the surviving spouse shall be deemed to be the only
 891 | qualified beneficiary as to his or her share of the community
 892 | property trust.

893 | Section 33. Section 736.1505, Florida Statutes, is created
 894 | to read:

895 | 736.1505 Classification of property as community property;
 896 | enforcement; duration; management and control; effect of
 897 | distributions.—

898 | (1) Whether both, one, or neither is domiciled in the
 899 | state, settlor spouses may classify any or all of their property
 900 | as community property by transferring that property to a

901 community property trust and providing in the trust that the
902 property is community property pursuant to this part.

903 (2) A community property trust is enforceable without
904 consideration.

905 (3) All property owned by a community property trust will
906 be community property under the laws of the state during the
907 marriage of the settlor spouses.

908 (4) The right to manage and control property that is
909 transferred to a community property trust is determined by the
910 terms of the trust agreement.

911 (5) When property is distributed from a community property
912 trust, the property shall no longer constitute community
913 property within the meaning of this part, provided that
914 community property as classified by a jurisdiction other than
915 the state retains its character as community property to the
916 extent otherwise provided by ss. 732.216-732.228.

917 Section 34. Section 736.1506, Florida Statutes, is created
918 to read:

919 736.1506 Satisfaction of obligations.—Except as provided
920 in s. 4, Art. X of the State Constitution:

921 (1) An obligation incurred by only one spouse before or
922 during the marriage may be satisfied from that spouse's one-half
923 share of a community property trust.

924 (2) An obligation incurred by both spouses during the
925 marriage may be satisfied from a community property trust of the

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926 settlor spouses.

927 Section 35. Section 736.1507, Florida Statutes, is created
928 to read:

929 736.1507 Death of a spouse.—Upon the death of a spouse,
930 one-half of the aggregate value of the property held in a
931 community property trust established by the settlor spouses
932 reflects the share of the surviving spouse and is not subject to
933 testamentary disposition by the decedent spouse or distribution
934 under the laws of succession of the state. The other one-half of
935 the value of that property reflects the share of the decedent
936 spouse and is subject to testamentary disposition or
937 distribution under the laws of succession of the state. Unless
938 provided otherwise in the community property trust agreement,
939 the trustee has the power to distribute assets of the trust in
940 divided or undivided interests and to adjust resulting
941 differences in valuation. A distribution in kind may be made on
942 the basis of a non-pro rata division of the aggregate value of
943 the trust assets, on the basis of a pro rata division of each
944 individual asset, or by using both methods. The decedent's
945 spouse's one-half share shall not be included in the elective
946 estate.

947 Section 36. Section 736.1508, Florida Statutes, is created
948 to read:

949 736.1508 Dissolution of marriage.—Upon the dissolution of
950 the marriage of the settlor spouses, the community property

951 trust shall terminate and the trustee shall distribute one-half
952 of the trust assets to each spouse, with each spouse receiving
953 one-half of each asset, unless otherwise agreed to in writing by
954 both spouses. For purposes of this act, s. 61.075 does not apply
955 to the disposition of the assets and liabilities held in a
956 community property trust.

957 Section 37. Section 736.1509, Florida Statutes, is created
958 to read:

959 736.1509 Right of child to support.—A community property
960 trust does not adversely affect the right of a child of the
961 settlor spouses to support that either spouse would be required
962 to give under the applicable laws of the settlor spouses' state
963 of domicile.

964 Section 38. Section 736.151, Florida Statutes, is created
965 to read:

966 736.151 Homestead property.—

967 (1) Property that is transferred to or acquired subject to
968 a community property trust may continue to qualify or may
969 initially qualify as the settlor spouses' homestead within the
970 meaning of s. 4(a)(1), Art. X of the State Constitution and for
971 all purposes of general law, provided that the property would
972 qualify as the settlor spouses' homestead if title was held in
973 one or both of the settlor spouses' individual names.

974 (2) The settlor spouses shall be deemed to have beneficial
975 title in equity to the homestead property held subject to a

976 community property trust for all purposes, including for
977 purposes of s. 196.031.

978 Section 39. Section 736.1511, Florida Statutes, is created
979 to read:

980 736.1511 Application of Internal Revenue Code; community
981 property classified by another jurisdiction.—For purposes of the
982 application of s. 1014(b) (6) of the Internal Revenue Code of
983 1986, 26 U.S.C. s. 1014(b) (6), as of January 1, 2021, a
984 community property trust is considered a trust established under
985 the community property laws of the state. Community property as
986 classified by a jurisdiction other than the state which is
987 transferred to a community property trust retains its character
988 as community property while in the trust. If the trust is
989 revoked and property is transferred on revocation of the trust,
990 the community property as classified by a jurisdiction other
991 than the state retains its character as community property to
992 the extent otherwise provided by ss. 732.216-732.228.

993 Section 40. Section 736.1512, Florida Statutes, is created
994 to read:

995 736.1512 Unenforceable trusts.—

996 (1) A community property trust executed during marriage is
997 not enforceable if the spouse against whom enforcement is sought
998 proves that:

999 (a) The trust was unconscionable when made;

1000 (b) The spouse against whom enforcement is sought did not

1001 execute the community property trust agreement voluntarily; or
 1002 (c) Before execution of the community property trust
 1003 agreement, the spouse against whom enforcement is sought:

1004 1. Was not given a fair and reasonable disclosure of the
 1005 property and financial obligations of the other spouse.

1006 2. Did not voluntarily sign a written waiver expressly
 1007 waiving right to disclosure of the property and financial
 1008 obligations of the other spouse beyond the disclosure provided.

1009 3. Did not have notice of the property or financial
 1010 obligations of the other spouse.

1011 (2) Whether a community property trust is unconscionable
 1012 shall be determined by a court as a matter of law.

1013 (3) A community property trust may not be deemed
 1014 unenforceable because the settlor spouses did not have separate
 1015 legal representation when executing the trust.

1016 Section 41. Paragraph (f) of subsection (5) of section
 1017 736.0802, Florida Statutes, is amended to read:

1018 736.0802 Duty of loyalty.—

1019 (5)

1020 (f)1. The trustee of a trust as defined in s. 731.201 may
 1021 request authority to invest in investment instruments described
 1022 in this subsection other than a qualified investment instrument,
 1023 by providing to all qualified beneficiaries a written request
 1024 containing the following:

1025 a. The name, telephone number, street address, and mailing

1026 address of the trustee and of any individuals who may be
 1027 contacted for further information.

1028 b. A statement that the investment or investments cannot
 1029 be made without the consent of a majority of each class of the
 1030 qualified beneficiaries.

1031 c. A statement that, if a majority of each class of
 1032 qualified beneficiaries consent, the trustee will have the right
 1033 to make investments in investment instruments, as defined in s.
 1034 660.25(6), which are owned or controlled by the trustee or its
 1035 affiliate, or from which the trustee or its affiliate receives
 1036 compensation for providing services in a capacity other than as
 1037 trustee, that such investment instruments may include investment
 1038 instruments sold primarily to trust accounts, and that the
 1039 trustee or its affiliate may receive fees in addition to the
 1040 trustee's compensation for administering the trust.

1041 d. A statement that the consent may be withdrawn
 1042 prospectively at any time by written notice given by a majority
 1043 of any class of the qualified beneficiaries.

1044
 1045 A statement by the trustee is not delivered if the statement is
 1046 accompanied by another written communication other than a
 1047 written communication by the trustee that refers only to the
 1048 statement.

1049 2. For purposes of paragraph (e) and this paragraph:

1050 a. "Majority of the qualified beneficiaries" means:

1051 (I) If at the time the determination is made there are one
 1052 or more beneficiaries as described in s. 736.0103(19)(c) ~~s.~~
 1053 ~~736.0103(16)(e)~~, at least a majority in interest of the
 1054 beneficiaries described in s. 736.0103(19)(a) ~~s.~~
 1055 ~~736.0103(16)(a)~~, at least a majority in interest of the
 1056 beneficiaries described in s. 736.0103(19)(b) ~~s.~~
 1057 ~~736.0103(16)(b)~~, and at least a majority in interest of the
 1058 beneficiaries described in s. 736.0103(19)(c) ~~s.~~
 1059 ~~736.0103(16)(e)~~, if the interests of the beneficiaries are
 1060 reasonably ascertainable; otherwise, a majority in number of
 1061 each such class; or

1062 (II) If there is no beneficiary as described in s.
 1063 736.0103(19)(c) ~~s. 736.0103(16)(e)~~, at least a majority in
 1064 interest of the beneficiaries described in s. 736.0103(19)(a) ~~s.~~
 1065 ~~736.0103(16)(a)~~ and at least a majority in interest of the
 1066 beneficiaries described in s. 736.0103(19)(b) ~~s.~~
 1067 ~~736.0103(16)(b)~~, if the interests of the beneficiaries are
 1068 reasonably ascertainable; otherwise, a majority in number of
 1069 each such class.

1070 b. "Qualified investment instrument" means a mutual fund,
 1071 common trust fund, or money market fund described in and
 1072 governed by s. 736.0816(3).

1073 c. An irrevocable trust is created upon execution of the
 1074 trust instrument. If a trust that was revocable when created
 1075 thereafter becomes irrevocable, the irrevocable trust is created

1076 | when the right of revocation terminates.

1077 | Section 42. Paragraph (a) of subsection (2) of section
1078 | 736.08125, Florida Statutes, is amended to read:

1079 | 736.08125 Protection of successor trustees.—

1080 | (2) For the purposes of this section, the term:

1081 | (a) "Eligible beneficiaries" means:

1082 | 1. At the time the determination is made, if there are one
1083 | or more beneficiaries as described in s. 736.0103(19)(c) s.

1084 | ~~736.0103(16)(e)~~, the beneficiaries described in s.

1085 | 736.0103(19)(a) and (c) ~~s. 736.0103(16)(a) and (e)~~; or

1086 | 2. If there is no beneficiary as described in s.

1087 | 736.0103(19)(c) ~~s. 736.0103(16)(e)~~, the beneficiaries described

1088 | in s. 736.0103(19)(a) and (b) ~~s. 736.0103(16)(a) and (b)~~.

1089 | Section 43. Paragraph (d) of subsection (9) of section
1090 | 738.104, Florida Statutes, is amended to read:

1091 | 738.104 Trustee's power to adjust.—

1092 | (9)

1093 | (d) For purposes of subsection (8) and this subsection,
1094 | the term:

1095 | 1. "Eligible beneficiaries" means:

1096 | a. If at the time the determination is made there are one
1097 | or more beneficiaries described in s. 736.0103(19)(c) ~~s.~~

1098 | ~~736.0103(16)(e)~~, the beneficiaries described in s.

1099 | 736.0103(19)(a) and (c) ~~s. 736.0103(16)(a) and (e)~~; or

1100 | b. If there is no beneficiary described in s.

1101 736.0103(19)(c) ~~s. 736.0103(16)(e)~~, the beneficiaries described
 1102 in s. 736.0103(19)(a) and (b) ~~s. 736.0103(16)(a) and (b)~~.

1103 2. "Super majority of the eligible beneficiaries" means:

1104 a. If at the time the determination is made there are one
 1105 or more beneficiaries described in s. 736.0103(19)(c) ~~s.~~
 1106 ~~736.0103(16)(e)~~, at least two-thirds in interest of the
 1107 beneficiaries described in s. 736.0103(19)(a) ~~s. 736.0103(16)(a)~~
 1108 or two-thirds in interest of the beneficiaries described in s.
 1109 736.0103(19)(c) ~~s. 736.0103(16)(e)~~, if the interests of the
 1110 beneficiaries are reasonably ascertainable; otherwise, it means
 1111 two-thirds in number of either such class; or

1112 b. If there is no beneficiary described in s.
 1113 736.0103(19)(c) ~~s. 736.0103(16)(e)~~, at least two-thirds in
 1114 interest of the beneficiaries described in s. 736.0103(19)(a) ~~s.~~
 1115 ~~736.0103(16)(a)~~ or two-thirds in interest of the beneficiaries
 1116 described in s. 736.0103(19)(b) ~~s. 736.0103(16)(b)~~, if the
 1117 interests of the beneficiaries are reasonably ascertainable,
 1118 otherwise, two-thirds in number of either such class.

1119 Section 44. Subsection (1) of section 744.3679, Florida
 1120 Statutes, is amended to read:

1121 744.3679 Simplified accounting procedures in certain
 1122 cases.—

1123 (1) In a guardianship of property, when all property
 1124 ~~assets~~ of the estate is ~~are~~ in designated depositories under s.
 1125 69.031 and the only transactions that occur in that account are

1126 interest accrual, deposits from a settlement, or financial
1127 institution service charges, the guardian may elect to file an
1128 accounting consisting of:

1129 (a) The original or a certified copy of the year-end
1130 statement of the ward's account from the financial institution;
1131 and

1132 (b) A statement by the guardian under penalty of perjury
1133 that the guardian has custody and control of the ward's property
1134 as shown in the year-end statement.

1135 Section 45. The Division of Law Revision is directed to
1136 replace the phrase "the effective date of this section" wherever
1137 it occurs in this act with the date those sections become law.

1138 Section 46. If any provision of this act or the
1139 application thereof to any person or circumstance is held
1140 invalid, the invalidity does not affect other provisions or
1141 applications of this act which can be given effect without the
1142 invalid provision or application, and to this end the provisions
1143 of this act are severable.

1144 Section 47. Except as otherwise expressly provided in this
1145 act and except for this section, which shall take effect upon
1146 becoming a law, this act shall take effect July 1, 2021.