

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 excluded from part XIV of this chapter under 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 relating to nonjudicial settlement agreements ~~the manifestation~~  
 275 of the settlor's intent regarding a trust's provisions as

276 ~~expressed in the trust instrument or as may be established by~~  
277 ~~other evidence that would be admissible in a judicial~~  
278 ~~proceeding.~~

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

285 Section 4. Paragraph (b) of subsection (2) of section  
286 736.0105, Florida Statutes, is amended to read:

287 736.0105 Default and mandatory rules.—

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

290 (b) Subject to s. 736.1409, relating to the duties and  
291 liabilities of a directed trustee; s. 736.1411, relating to  
292 limitations on duties of a trustee or trust director to monitor,  
293 inform, or advise on matters involving the other; and s.  
294 736.1412, relating to the allocation of powers among cotrustees,  
295 requirements for excluded cotrustees to act as a directed  
296 trustee, and liability and related obligations of directing  
297 cotrustees, the duty of the trustee to act in good faith and in  
298 accordance with the terms and purposes of the trust and the  
299 interests of the beneficiaries.

300 Section 5. Subsection (1) of section 736.0201, Florida

301 Statutes, is amended and subsection (7) is added to that section  
 302 to read:

303 736.0201 Role of court in trust proceedings.—

304 (1) Except as provided in subsections (5), ~~and~~ (6), ~~and~~  
 305 (7) and s. 736.0206, judicial proceedings concerning trusts  
 306 shall be commenced by filing a complaint and shall be governed  
 307 by the Florida Rules of Civil Procedure.

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

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

315 736.0603 Settlor's powers; powers of withdrawal.—

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

319 Section 7. Subsections (3), (7), and (9) of section  
 320 736.0703, Florida Statutes, are amended to read:

321 736.0703 Cotrustees.—

322 (3) Subject to s. 736.1412, relating to the allocation of  
 323 powers among cotrustees, requirements for excluded cotrustees to  
 324 act as a directed trustee, and liability and related obligations  
 325 of directing cotrustees, a cotrustee must participate in the

326 performance of a trustee's function unless the cotrustee is  
327 unavailable to perform the function because of absence, illness,  
328 disqualification under other provision of law, or other  
329 temporary incapacity or the cotrustee has properly delegated the  
330 performance of the function to another cotrustee.

331 (7) Except as otherwise provided in s. 736.1412, relating  
332 to the allocation of powers among cotrustees, requirements for  
333 excluded cotrustees to act as a directed trustee, and liability  
334 and related obligations of directing cotrustees ~~subsection (9),~~  
335 each cotrustee shall exercise reasonable care to:

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

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

338 ~~(9) If the terms of a trust provide for the appointment of~~  
339 ~~more than one trustee but confer upon one or more of the~~  
340 ~~trustees, to the exclusion of the others, the power to direct or~~  
341 ~~prevent specified actions of the trustees, the excluded trustees~~  
342 ~~shall act in accordance with the exercise of the power. Except~~  
343 ~~in cases of willful misconduct on the part of the excluded~~  
344 ~~trustee, an excluded trustee is not liable, individually or as a~~  
345 ~~fiduciary, for any consequence that results from compliance with~~  
346 ~~the exercise of the power. An excluded trustee does not have a~~  
347 ~~duty or an obligation to review, inquire, investigate, or make~~  
348 ~~recommendations or evaluations with respect to the exercise of~~  
349 ~~the power. The trustee or trustees having the power to direct or~~  
350 ~~prevent actions of the excluded trustees shall be liable to the~~

351 ~~beneficiaries with respect to the exercise of the power as if~~  
352 ~~the excluded trustees were not in office and shall have the~~  
353 ~~exclusive obligation to account to and to defend any action~~  
354 ~~brought by the beneficiaries with respect to the exercise of the~~  
355 ~~power. The provisions of s. 736.0808(2) do not apply if the~~  
356 ~~person entrusted with the power to direct the actions of the~~  
357 ~~excluded trustee is also a cotrustee.~~

358 Section 8. Section 736.0808, Florida Statutes, is  
359 repealed.

360 Section 9. Subsection (7) of section 736.1008, Florida  
361 Statutes, is renumbered as subsection (8), paragraph (a) of  
362 subsection (1), subsection (2), and paragraphs (a) and (c) of  
363 subsection (4) are amended, and a new subsection (7) is added to  
364 that section, to read:

365 736.1008 Limitations on proceedings against trustees.—

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

369 (a) All matters adequately disclosed in a trust disclosure  
370 document issued by the trustee or a trust director, with the  
371 limitations period beginning on the date of receipt of adequate  
372 disclosure.

373 (2) Unless sooner barred by adjudication, consent, or  
374 limitations, a beneficiary is barred from bringing an action  
375 against a trustee for breach of trust with respect to a matter

376 that was adequately disclosed in a trust disclosure document  
377 unless a proceeding to assert the claim is commenced within 6  
378 months after receipt from the trustee or a trust director of the  
379 trust disclosure document or a limitation notice that applies to  
380 that disclosure document, whichever is received later.

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

382 (a) "Trust disclosure document" means a trust accounting  
383 or any other written report of the trustee or a trust director.  
384 A trust disclosure document adequately discloses a matter if the  
385 document provides sufficient information so that a beneficiary  
386 knows of a claim or reasonably should have inquired into the  
387 existence of a claim with respect to that matter.

388 (c) "Limitation notice" means a written statement of the  
389 trustee or a trust director that an action by a beneficiary  
390 ~~against the trustee~~ for breach of trust based on any matter  
391 adequately disclosed in a trust disclosure document may be  
392 barred unless the action is commenced within 6 months after  
393 receipt of the trust disclosure document or receipt of a  
394 limitation notice that applies to that trust disclosure  
395 document, whichever is later. A limitation notice may but is not  
396 required to be in the following form: "An action for breach of  
397 trust based on matters disclosed in a trust accounting or other  
398 written report of the trustee or a trust director may be subject  
399 to a 6-month statute of limitations from the receipt of the  
400 trust accounting or other written report. If you have questions,



401 please consult your attorney."

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

405 Section 10. Paragraphs (e), (f), and (g) of subsection (1)  
406 of section 736.1017, Florida Statutes, are redesignated as  
407 paragraphs (f), (g), and (h), respectively, and a new paragraph  
408 (e) is added to that subsection, to read:

409 736.1017 Certification of trust.—

410 (1) Instead of furnishing a copy of the trust instrument  
411 to a person other than a beneficiary, the trustee may furnish to  
412 the person a certification of trust containing the following  
413 information:

414 (e) Whether the trust contains any powers of direction,  
415 and if so, the identity of the current trust directors, the  
416 trustee powers subject to a power of direction, and whether the  
417 trust directors have directed or authorized the trustee to  
418 engage in the proposed transaction for which the certification  
419 of trust was issued.

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

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

424 736.1105 Effect of subsequent marriage, birth, adoption,  
425 or dissolution of marriage.—

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

428        (2) Any provision of a revocable trust that affects the  
 429 settlor's spouse is void upon dissolution of the marriage of the  
 430 settlor and the spouse, whether the marriage occurred before or  
 431 after the execution of such revocable trust. Upon dissolution of  
 432 marriage, the revocable trust shall be construed as if the  
 433 spouse had died at the time of the dissolution of marriage.

434        (a) Dissolution of marriage occurs at the time the  
 435 decedent's marriage is judicially dissolved or declared invalid  
 436 by court order.

437        (b) This subsection does not invalidate a provision of a  
 438 revocable trust:

439            1. Executed by the settlor after the dissolution of the  
 440 marriage;

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

443            3. If the dissolution of marriage judgment expressly  
 444 provides otherwise.

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

447        Section 12. Section 736.1109, Florida Statutes, is created  
 448 to read:

449            736.1109 Testamentary and revocable trusts; homestead  
 450 protections.-

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

455 (2) A power of sale or general direction to pay debts,  
456 expenses and claims within the trust instrument does not subject  
457 an interest in the protected homestead to the claims of  
458 decedent's creditors, expenses of administration, and  
459 obligations of the decedent's estate as provided in s.  
460 736.05053.

461 (3) If a trust directs the sale of property that would  
462 otherwise qualify as protected homestead, and the property is  
463 not subject to the constitutional limitations on the devise of  
464 homestead under the State Constitution, title shall remain  
465 vested in the trustee and subject to the provisions of the  
466 trust.

467 (4) This section applies only to trusts described in s.  
468 733.707(3) and to testamentary trusts.

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

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

475 Section 14. Section 736.1401, Florida Statutes, is created

476 to read:

477 736.1401 Short title.—This part may be cited as the  
478 "Florida Uniform Directed Trust Act."

479 Section 15. Section 736.1403, Florida Statutes, is created  
480 to read:

481 736.1403 Application; principal place of administration.—

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

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

488 (b) If the principal place of administration of the trust  
489 is changed to the state on or after July 1, 2021, this part  
490 applies only to a decision or action occurring on or after the  
491 date of the change.

492 (2) In addition to s. 736.0108, relating to a trust's  
493 principal place of administration, in a directed trust, terms of  
494 the trust that designate the principal place of administration  
495 of the trust in the state are valid and controlling if a trust  
496 director's principal place of business is located in or a trust  
497 director is a resident of the state.

498 Section 16. Section 736.1405, Florida Statutes, is created  
499 to read:

500 736.1405 Exclusions.—

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

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

508 (a) A power of appointment;

509 (b) A power to appoint or remove a trustee or trust  
510 director;

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

513 (d) A power of a beneficiary over a trust to the extent  
514 the exercise or nonexercise of the power affects the beneficial  
515 interest of:

516 1. The beneficiary; or

517 2. Another beneficiary represented by the beneficiary  
518 under ss. 736.0301-736.0305 with respect to the exercise or  
519 nonexercise of the power;

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

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

526 2. It is a power to reimburse the settlor for all or a part  
 527 of the settlor's income tax liabilities attributable to the  
 528 income of the trust; or

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

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

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

538 (b) To create, modify, or terminate a power of appointment  
 539 is a power of direction and not a power of appointment, except a  
 540 power to create a power of appointment that is an element of a  
 541 broader power to affect an ownership interest in trust property  
 542 beyond the mere creation of a power of appointment, such as a  
 543 power to appoint trust property in further trust, is a power of  
 544 appointment and not a power of direction.

545 Section 17. Section 736.1406, Florida Statutes, is created  
 546 to read:

547 736.1406 Power of trust director.—

548 (1) Subject to s. 736.1407, relating to trust directors  
 549 being subject to the same rules as a trustee regarding Social  
 550 Security Act reimbursement requirements and charitable trust

551 instruments, the terms of a trust may grant a power of direction  
552 to a trust director.

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

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

556 (a) A trust director may exercise any further power  
557 appropriate to the exercise or nonexercise of a power of  
558 direction granted to the trust director under subsection (1);  
559 and

560 (b) Trust directors with joint powers must act by majority  
561 decision.

562 Section 18. Section 736.1407, Florida Statutes, is created  
563 to read:

564 736.1407 Limitations on trust director.—A trust director  
565 is subject to the same rules as a trustee in a like position and  
566 under similar circumstances in the exercise or nonexercise of a  
567 power of direction or further power under s. 736.1406(3)(a),  
568 relating to additional power granted to a trust director in  
569 furtherance of an express power of direction, regarding:

570 (1) A payoff provision in the terms of a trust necessary  
571 to comply with the reimbursement requirements of s. 1917 of the  
572 Social Security Act, 42 U.S.C. s. 1396p(d)(4)(A), as amended,  
573 and regulations issued thereunder, as amended.

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

576 Section 19. Section 736.1408, Florida Statutes, is created  
577 to read:

578 736.1408 Duty and liability of trust director.-

579 (1) Subject to subsection (2), with respect to a power of  
580 direction or further power under s. 736.1406(3) (a), relating to  
581 additional power granted to a trust director in furtherance of  
582 an express power of direction:

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

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

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

590 (b) The terms of the trust may vary the trust director's  
591 duty or liability to the same extent the terms of the trust may  
592 vary the duty or liability of a trustee in a like position and  
593 under similar circumstances.

594 (2) Unless the terms of a trust provide otherwise, if a  
595 trust director is licensed, certified, or otherwise authorized  
596 or permitted by law other than this part to provide health care  
597 in the ordinary course of the trust director's business or  
598 practice of a profession, to the extent the trust director acts  
599 in that capacity the trust director has no duty or liability  
600 under this part.



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

604       Section 20. Section 736.1409, Florida Statutes, is created  
605 to read:

606       736.1409 Duty and liability of directed trustee.—

607       (1) Subject to subsection (2), a directed trustee shall  
608 take reasonable action to comply with a trust director's  
609 exercise or nonexercise of a power of direction or further power  
610 under s. 736.1406(3) (a), relating to additional power granted to  
611 a trust director in furtherance of an express power of  
612 direction, and the trustee is not liable for such reasonable  
613 action.

614       (2) A directed trustee may not comply with a trust  
615 director's exercise or nonexercise of a power of direction or  
616 further power under s. 736.1406(3) (a), relating to additional  
617 power granted to a trust director in furtherance of an express  
618 power of direction, to the extent that by complying the trustee  
619 would engage in willful misconduct.

620       (3) Before complying with a trust director's exercise of a  
621 power of direction, the directed trustee shall determine whether  
622 or not the exercise is within the scope of the trust director's  
623 power of direction. The exercise of a power of direction is not  
624 outside the scope of a trust director's power of direction  
625 merely because the exercise constitutes or may constitute a

626 breach of trust.

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

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

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

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

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

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

643 Section 21. Section 736.141, Florida Statutes, is created  
 644 to read:

645 736.141 Duty to provide information.-

646 (1) Subject to s. 736.1411, relating to limitations on the  
 647 duties of trustees or trust directors to monitor, inform, or  
 648 advise on matters involving the other, a trustee shall provide  
 649 information to a trust director to the extent the information is  
 650 reasonably related to the powers or duties of the trust

651 director.

652 (2) Subject to s. 736.1411, relating to limitations on the  
653 duties of trustees or trust directors to monitor, inform, or  
654 advise on matters involving the other, a trust director shall  
655 provide information to a trustee or another trust director to  
656 the extent the information is reasonably related to the powers  
657 or duties of the trustee or other trust director.

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

662 (4) A trust director that acts in reliance on information  
663 provided by a trustee or another trust director is not liable  
664 for a breach of trust to the extent the breach resulted from the  
665 reliance, unless by so acting the trust director engages in  
666 willful misconduct.

667 (5) A trust director shall provide information within the  
668 trust director's knowledge or control to a qualified beneficiary  
669 upon a written request of a qualified beneficiary to the extent  
670 the information is reasonably related to the powers or duties of  
671 the trust director.

672 Section 22. Section 736.1411, Florida Statutes, is created  
673 to read:

674 736.1411 No duty to monitor, inform, or advise.—

675 (1) Notwithstanding s. 736.1409(1), relating to the duty

676 of a directed trustee to take reasonable action when directed  
 677 and to the release of liability for such action, unless the  
 678 terms of a trust provide otherwise:

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

680 1. Monitor a trust director; or

681 2. Inform or give advice to a settlor, beneficiary,  
 682 trustee, or trust director concerning an instance in which the  
 683 trustee might have acted differently than the trust director.

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

686 (2) Notwithstanding s. 736.1408(1), relating to the  
 687 fiduciary duty of a trust director, unless the terms of a trust  
 688 provide otherwise:

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

690 1. Monitor a trustee or another trust director; or

691 2. Inform or give advice to a settlor, beneficiary,  
 692 trustee, or another trust director concerning an instance in  
 693 which the trust director might have acted differently than a  
 694 trustee or another trust director.

695 (b) By taking an action described in paragraph (a), a  
 696 trust director does not assume the duty excluded by paragraph  
 697 (a).

698 Section 23. Section 736.1412, Florida Statutes, is created  
 699 to read:

700 736.1412 Application to cotrustee.—

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

705       (2) The excluded trustees shall act in accordance with the  
706 exercise of the power in the manner, and with the same duty and  
707 liability, as directed trustees with respect to a trust  
708 director's power of direction under s. 736.1409, relating to the  
709 duties and liabilities of a directed trustee; s. 736.141,  
710 relating to the duties of a trustee and trust director to  
711 provide and rely on information; and s. 736.1411, relating to  
712 limitations on the duties of trustees or trust directors to  
713 monitor, inform, or advise on matters involving the other.

714       (3) The trustee or trustees having the power to direct or  
715 prevent actions of the excluded trustees shall be liable to the  
716 beneficiaries with respect to the exercise of the power as if  
717 the excluded trustees were not in office and shall have the  
718 exclusive obligation to account to and to defend any action  
719 brought by the beneficiaries with respect to the exercise of the  
720 power.

721       Section 24. Section 736.1413, Florida Statutes, is created  
722 to read:

723       736.1413 Limitation of action against trust director.—

724       (1) An action against a trust director for breach of trust  
725 must be commenced within the same limitation period for an

726 action for breach of trust against a trustee in a like position  
727 and under similar circumstances under s. 736.1008, relating to  
728 limitations on proceedings against trustees.

729 (2) A trust accounting or any other written report of a  
730 trustee or a trust director has the same effect on the  
731 limitation period for an action against a trust director for  
732 breach of trust that such trust accounting or written report  
733 would have under s. 736.1008, relating to limitations on  
734 proceedings against trustees, in an action for breach of trust  
735 against a trustee in a like position and under similar  
736 circumstances.

737 Section 25. Section 736.1414, Florida Statutes, is created  
738 to read:

739 736.1414 Defenses in action against trust director.—In an  
740 action against a trust director for breach of trust, the trust  
741 director may assert the same defenses a trustee in a like  
742 position and under similar circumstances could assert in an  
743 action for breach of trust against the trustee.

744 Section 26. Section 736.1415, Florida Statutes, is created  
745 to read:

746 736.1415 Jurisdiction over trust director.—

747 (1) By accepting appointment as a trust director of a  
748 trust subject to this part, the trust director submits to the  
749 personal jurisdiction of the courts of the state regarding any  
750 matter related to a power or duty of the trust director.

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

753 Section 27. Section 736.1416, Florida Statutes, is created  
754 to read:

755 736.1416 Office of trust director.—

756 (1) Unless the terms of a trust provide otherwise, a trust  
757 director shall be considered a trustee for purposes of the  
758 following:

759 (a) Role of court in trust proceedings under s. 736.0201.

760 (b) Proceedings for review of employment of agents and  
761 review of compensation of trustee and employees of a trust under  
762 s. 736.0206.

763 (c) Representation by holder of power of appointment under  
764 s. 736.0302(4), relating to how trustees with discretionary  
765 power to make trust distributions do not have a power of  
766 appointment for purposes of representing persons affected by  
767 such power.

768 (d) Prohibition on a trustee acting as a designated  
769 representative under s. 736.0306(2).

770 (e) Validation of power to select a beneficiary from an  
771 indefinite class under s. 736.0402(3).

772 (f) As to allowing application by the trust director for  
773 judicial modification of a trust when such modification is not  
774 inconsistent with the settlor's purpose under s. 736.04113, for  
775 judicial construction of provisions relating to federal taxes

776 under s. 736.04114, for judicial modification of a trust when  
777 such modification is in the best interest of the beneficiaries  
778 under s. 736.04115, or for judicial modification or termination  
779 of an uneconomic trust under s. 736.0414(2), if the trust  
780 director is so authorized by the terms of the trust.

781 (g) Discretionary trusts and the effect of a standard  
782 under s. 736.0504, relating to special provisions regarding  
783 discretionary trusts.

784 (h) Trust assets not being subject to creditor claims by  
785 reason of discretionary powers granted to a trustee under s.  
786 736.0505(1)(c).

787 (i) A trustee's duty to pay trust obligations and expenses  
788 before paying obligations and expenses of the settlor's estate  
789 under s. 736.05053(4).

790 (j) Acceptance or declination of a trusteeship under s.  
791 736.0701.

792 (k) Requirement to give bond to secure performance under  
793 certain circumstances and court discretions relating to such  
794 bonds under s. 736.0702.

795 (l) Filling trustee vacancies and court appointment of an  
796 additional trustee or special fiduciary under s. 736.0704.

797 (m) Resignation of a trustee under s. 736.0705, including  
798 requirements, court authorizations, and remaining liabilities.

799 (n) Court removal of a trustee, including who may request  
800 a removal, under s. 736.0706, but not to give the trust director



801 the power to request removal of a trustee.

802 (o) Reasonable compensation of a trustee or professional  
803 acting as a trustee under s. 736.0708.

804 (p) Entitlement of a trustee to reimbursement of expenses  
805 and liens to secure advances under s. 736.0709.

806 (q) Authority to pay costs or attorney fees without  
807 approval under s. 736.0802(10), if the trust director has a  
808 power of direction or, if the trust director has a further power  
809 to direct, the payment of such costs or attorney fees under s.  
810 736.1406(2), relating to the explicit power of direction granted  
811 to a trust director, or s. 736.1406(3) (a), relating to the  
812 implied additional power of a director in furtherance of an  
813 express power of direction.

814 (r) Limitations on a trustee's discretionary powers under  
815 s. 736.0814.

816 (s) Administration of trusts by trustees without regard to  
817 pending contests or proceedings, except as the court directs,  
818 under s. 736.08165.

819 (t) A trustee's obligation to invest in accordance with  
820 chapter 518 under s. 736.0901.

821 (u) The exception to the prudent investor rule for life  
822 insurance under s. 736.0902.

823 (v) Remedies available for a trustee breach of trust under  
824 s. 736.1001.

825 (w) Damages against a trustee for breach of trust under s.

826 736.1002.

827 (x) A trustee's immunity from liability for loss or no  
828 profit under s. 736.1003 if there is no breach of trust.

829 (y) Court-awarded attorney fees and costs under s.  
830 736.1004 for breach of trust challenges.

831 (z) Fees available to a trustee's attorney for  
832 extraordinary service under s. 736.1007(5), court variance of  
833 compensation for a trustee's attorney under s. 736.1007(6), and  
834 agreements between a settlor and an attorney for fees to be  
835 provided to a trustee under s. 736.1007(7).

836 (aa) A trustee's immunity from liability for a breach of  
837 trust under s. 736.1009 if the trustee relied on the trust  
838 instrument terms.

839 (bb) Limitations on a trustee's liability for acting  
840 without knowledge of relevant events under s. 736.1010.

841 (cc) Limitations on a trustee's exculpation of liability  
842 under the terms of a trust under s. 736.1011.

843 (dd) The release of a trustee from liability with consent,  
844 the release or ratification of a beneficiary, and the  
845 limitations on such actions under s. 736.1012.

846 (ee) Limitations on imposing liability on a trustee for  
847 obligations of a settlor under s. 736.1014.

848 (2) If a person has not accepted a trust directorship  
849 under the terms of the trust or has accepted or declined a  
850 trusteeship under s. 736.0701 or a trustee, settlor, or a

851 qualified beneficiary of the trust is uncertain whether such  
852 acceptance has occurred, a trustee, settlor, or a qualified  
853 beneficiary of the trust may make a written demand on a person  
854 designated to serve as a trust director, with a written copy to  
855 the trustees, to accept or confirm prior acceptance of the trust  
856 directorship in writing. A written acceptance, written  
857 acknowledgment of prior acceptance, or written declination of  
858 the trust directorship shall be delivered by the designated  
859 trust director within 60 days after receipt of such demand to  
860 all trustees, qualified beneficiaries, and the settlor if  
861 living.

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

865 Section 29. Section 736.1501, Florida Statutes, is created  
866 to read:

867 736.1501 Short title.—This part may be cited as the  
868 "Community Property Trust Act."

869 Section 30. Section 736.1502, Florida Statutes, is created  
870 to read:

871 736.1502 Definitions.—Unless the context otherwise  
872 requires, as used in this part:

873 (1) "Community property" means the property and the  
874 appreciation of and income from the property owned by a  
875 qualified trustee of a community property trust during the

876 marriage of the settlor spouses. The property owned by a  
877 community property trust pursuant to this part and the  
878 appreciation of and income from such property shall be deemed to  
879 be community property for purposes of general law.

880 (2) "Community property trust" means an express trust that  
881 complies with s. 736.1503 and is created on or after July 1,  
882 2021.

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

885 (4) "Dissolution" means either:

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

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

889 (5) "During marriage" means a period that begins at  
890 marriage and ends upon the dissolution of marriage or upon the  
891 death of a spouse.

892 (6) "Qualified trustee" means either:

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

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

895  
896 A qualified trustee's powers include, but are not limited to,  
897 maintaining records for the trust on an exclusive or a  
898 nonexclusive basis and preparing or arranging for the  
899 preparation of, on an exclusive or a nonexclusive basis, any  
900 income tax returns that must be filed by the trust.

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

903        Section 31. Section 736.1503, Florida Statutes, is created  
 904 to read:

905        736.1503 Requirements for community property trust.—An  
 906 arrangement is a community property trust if one or both settlor  
 907 spouses transfer property to a trust that:

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

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

913        (3) Is signed by both settlor spouses consistent with the  
 914 formalities required for the execution of a trust under this  
 915 chapter.

916        (4) Contains substantially the following language in  
 917 capital letters at the beginning of the community property trust  
 918 agreement:

919  
 920        THE CONSEQUENCES OF THIS COMMUNITY PROPERTY TRUST MAY  
 921 BE VERY EXTENSIVE, INCLUDING, BUT NOT LIMITED TO, YOUR  
 922 RIGHTS WITH RESPECT TO CREDITORS AND OTHER THIRD  
 923 PARTIES, AND YOUR RIGHTS WITH YOUR SPOUSE DURING THE  
 924 COURSE OF YOUR MARRIAGE, AT THE TIME OF A DIVORCE, AND  
 925 UPON THE DEATH OF YOU OR YOUR SPOUSE. ACCORDINGLY,

926        THIS TRUST AGREEMENT SHOULD ONLY BE SIGNED AFTER  
 927        CAREFUL CONSIDERATION. IF YOU HAVE ANY QUESTIONS ABOUT  
 928        THIS TRUST AGREEMENT, YOU SHOULD SEEK COMPETENT AND  
 929        INDEPENDENT LEGAL ADVICE.

930        Section 32. Section 736.1504, Florida Statutes, is created  
 931        to read:

932        736.1504 Agreement establishing community property trust;  
 933        amendments and revocation.-

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

936        (a) The rights and obligations in the property transferred  
 937        to the trust, notwithstanding when and where the property is  
 938        acquired or located.

939        (b) The management and control of the property transferred  
 940        into the trust.

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

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

945        (e) Any other matter that affects the property transferred  
 946        to the trust and does not violate public policy or general law  
 947        imposing a criminal penalty, or result in the property not being  
 948        treated as community property under the laws of any  
 949        jurisdiction.

950        (2) In the event of the death of a settlor spouse, the

951 surviving spouse may amend a community property trust regarding  
952 the disposition of that spouse's one-half share of the community  
953 property, regardless of whether the agreement provides that the  
954 community property trust is irrevocable.

955 (3) A community property trust may be amended or revoked  
956 by the settlor spouses unless the agreement itself specifically  
957 provides that the community property trust is irrevocable.

958 (4) Notwithstanding any other provision of this code, the  
959 settlor spouses shall be deemed to be the only qualified  
960 beneficiaries of a community property trust until the death of  
961 one of the settlor spouses, regardless of whether the trust is  
962 revocable or irrevocable. After the death of one of the settlor  
963 spouses, the surviving spouse shall be deemed to be the only  
964 qualified beneficiary as to his or her share of the community  
965 property trust.

966 Section 33. Section 736.1505, Florida Statutes, is created  
967 to read:

968 736.1505 Classification of property as community property;  
969 enforcement; duration; management and control; effect of  
970 distributions.—

971 (1) Whether both, one, or neither is domiciled in the  
972 state, settlor spouses may classify any or all of their property  
973 as community property by transferring that property to a  
974 community property trust and providing in the trust that the  
975 property is community property pursuant to this part.

976        (2) A community property trust is enforceable without  
977 consideration.

978        (3) All property owned by a community property trust will  
979 be community property under the laws of the state during the  
980 marriage of the settlor spouses.

981        (4) The right to manage and control property that is  
982 transferred to a community property trust is determined by the  
983 terms of the trust agreement.

984        (5) When property is distributed from a community property  
985 trust, the property shall no longer constitute community  
986 property within the meaning of this part, provided that  
987 community property as classified by a jurisdiction other than  
988 the state retains its character as community property to the  
989 extent otherwise provided by ss. 732.216-732.228.

990        Section 34. Section 736.1506, Florida Statutes, is created  
991 to read:

992        736.1506 Satisfaction of obligations.—Except as provided  
993 in s. 4, Art. X of the State Constitution:

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

997        (2) An obligation incurred by both spouses during the  
998 marriage may be satisfied from a community property trust of the  
999 settlor spouses.

1000        Section 35. Section 736.1507, Florida Statutes, is created



1001 to read:

1002 736.1507 Death of a spouse.—Upon the death of a spouse,  
 1003 one-half of the aggregate value of the property held in a  
 1004 community property trust established by the settlor spouses  
 1005 reflects the share of the surviving spouse and is not subject to  
 1006 testamentary disposition by the decedent spouse or distribution  
 1007 under the laws of succession of the state. The other one-half of  
 1008 the value of that property reflects the share of the decedent  
 1009 spouse and is subject to testamentary disposition or  
 1010 distribution under the laws of succession of the state. Unless  
 1011 provided otherwise in the community property trust agreement,  
 1012 the trustee has the power to distribute assets of the trust in  
 1013 divided or undivided interests and to adjust resulting  
 1014 differences in valuation. A distribution in kind may be made on  
 1015 the basis of a non-pro rata division of the aggregate value of  
 1016 the trust assets, on the basis of a pro rata division of each  
 1017 individual asset, or by using both methods. The decedent's  
 1018 spouse's one-half share shall not be included in the elective  
 1019 estate.

1020 Section 36. Section 736.1508, Florida Statutes, is created  
 1021 to read:

1022 736.1508 Dissolution of marriage.—Upon the dissolution of  
 1023 the marriage of the settlor spouses, the community property  
 1024 trust shall terminate and the trustee shall distribute one-half  
 1025 of the trust assets to each spouse, with each spouse receiving

1026 one-half of each asset, unless otherwise agreed to in writing by  
 1027 both spouses. For purposes of this act, s. 61.075 does not apply  
 1028 to the disposition of the assets and liabilities held in a  
 1029 community property trust.

1030 Section 37. Section 736.1509, Florida Statutes, is created  
 1031 to read:

1032 736.1509 Right of child to support.—A community property  
 1033 trust does not adversely affect the right of a child of the  
 1034 settlor spouses to support that either spouse would be required  
 1035 to give under the applicable laws of the settlor spouses' state  
 1036 of domicile.

1037 Section 38. Section 736.151, Florida Statutes, is created  
 1038 to read:

1039 736.151 Homestead property.—

1040 (1) Property that is transferred to or acquired subject to  
 1041 a community property trust may continue to qualify or may  
 1042 initially qualify as the settlor spouses' homestead within the  
 1043 meaning of s. 4(a)(1), Art. X of the State Constitution and for  
 1044 all purposes of general law, provided that the property would  
 1045 qualify as the settlor spouses' homestead if title was held in  
 1046 one or both of the settlor spouses' individual names.

1047 (2) The settlor spouses shall be deemed to have beneficial  
 1048 title in equity to the homestead property held subject to a  
 1049 community property trust for all purposes, including for  
 1050 purposes of s. 196.031.

1051 Section 39. Section 736.1511, Florida Statutes, is created  
 1052 to read:

1053 736.1511 Application of Internal Revenue Code; community  
 1054 property classified by another jurisdiction.—For purposes of the  
 1055 application of s. 1014(b) (6) of the Internal Revenue Code of  
 1056 1986, 26 U.S.C. s. 1014(b) (6), as of January 1, 2021, a  
 1057 community property trust is considered a trust established under  
 1058 the community property laws of the state. Community property as  
 1059 classified by a jurisdiction other than the state which is  
 1060 transferred to a community property trust retains its character  
 1061 as community property while in the trust. If the trust is  
 1062 revoked and property is transferred on revocation of the trust,  
 1063 the community property as classified by a jurisdiction other  
 1064 than the state retains its character as community property to  
 1065 the extent otherwise provided by ss. 732.216-732.228.

1066 Section 40. Section 736.1512, Florida Statutes, is created  
 1067 to read:

1068 736.1512 Unenforceable trusts.—

1069 (1) A community property trust executed during marriage is  
 1070 not enforceable if the spouse against whom enforcement is sought  
 1071 proves that:

1072 (a) The trust was unconscionable when made;

1073 (b) The spouse against whom enforcement is sought did not  
 1074 execute the community property trust agreement voluntarily; or

1075 (c) Before execution of the community property trust

1076 agreement, the spouse against whom enforcement is sought:  
 1077 1. Was not given a fair and reasonable disclosure of the  
 1078 property and financial obligations of the other spouse.  
 1079 2. Did not voluntarily sign a written waiver expressly  
 1080 waiving right to disclosure of the property and financial  
 1081 obligations of the other spouse beyond the disclosure provided.  
 1082 3. Did not have notice of the property or financial  
 1083 obligations of the other spouse.  
 1084 (2) Whether a community property trust is unconscionable  
 1085 shall be determined by a court as a matter of law.  
 1086 (3) A community property trust may not be deemed  
 1087 unenforceable because the settlor spouses did not have separate  
 1088 legal representation when executing the trust.  
 1089 Section 41. Paragraph (f) of subsection (5) of section  
 1090 736.0802, Florida Statutes, is amended to read:  
 1091 736.0802 Duty of loyalty.—  
 1092 (5)  
 1093 (f)1. The trustee of a trust as defined in s. 731.201 may  
 1094 request authority to invest in investment instruments described  
 1095 in this subsection other than a qualified investment instrument,  
 1096 by providing to all qualified beneficiaries a written request  
 1097 containing the following:  
 1098 a. The name, telephone number, street address, and mailing  
 1099 address of the trustee and of any individuals who may be  
 1100 contacted for further information.

1101           b. A statement that the investment or investments cannot  
 1102 be made without the consent of a majority of each class of the  
 1103 qualified beneficiaries.

1104           c. A statement that, if a majority of each class of  
 1105 qualified beneficiaries consent, the trustee will have the right  
 1106 to make investments in investment instruments, as defined in s.  
 1107 660.25(6), which are owned or controlled by the trustee or its  
 1108 affiliate, or from which the trustee or its affiliate receives  
 1109 compensation for providing services in a capacity other than as  
 1110 trustee, that such investment instruments may include investment  
 1111 instruments sold primarily to trust accounts, and that the  
 1112 trustee or its affiliate may receive fees in addition to the  
 1113 trustee's compensation for administering the trust.

1114           d. A statement that the consent may be withdrawn  
 1115 prospectively at any time by written notice given by a majority  
 1116 of any class of the qualified beneficiaries.

1117  
 1118 A statement by the trustee is not delivered if the statement is  
 1119 accompanied by another written communication other than a  
 1120 written communication by the trustee that refers only to the  
 1121 statement.

1122           2. For purposes of paragraph (e) and this paragraph:

1123           a. "Majority of the qualified beneficiaries" means:

1124           (I) If at the time the determination is made there are one  
 1125 or more beneficiaries as described in s. 736.0103(19)(c) ~~s.~~

1126 | ~~736.0103(16)(c)~~, at least a majority in interest of the  
 1127 | beneficiaries described in s. 736.0103(19)(a) ~~s.~~  
 1128 | ~~736.0103(16)(a)~~, at least a majority in interest of the  
 1129 | beneficiaries described in s. 736.0103(19)(b) ~~s.~~  
 1130 | ~~736.0103(16)(b)~~, and at least a majority in interest of the  
 1131 | beneficiaries described in s. 736.0103(19)(c) ~~s.~~  
 1132 | ~~736.0103(16)(e)~~, if the interests of the beneficiaries are  
 1133 | reasonably ascertainable; otherwise, a majority in number of  
 1134 | each such class; or  
 1135 |       (II) If there is no beneficiary as described in s.  
 1136 | 736.0103(19)(c) ~~s. 736.0103(16)(e)~~, at least a majority in  
 1137 | interest of the beneficiaries described in s. 736.0103(19)(a) ~~s.~~  
 1138 | ~~736.0103(16)(a)~~ and at least a majority in interest of the  
 1139 | beneficiaries described in s. 736.0103(19)(b) ~~s.~~  
 1140 | ~~736.0103(16)(b)~~, if the interests of the beneficiaries are  
 1141 | reasonably ascertainable; otherwise, a majority in number of  
 1142 | each such class.  
 1143 |       b. "Qualified investment instrument" means a mutual fund,  
 1144 | common trust fund, or money market fund described in and  
 1145 | governed by s. 736.0816(3).  
 1146 |       c. An irrevocable trust is created upon execution of the  
 1147 | trust instrument. If a trust that was revocable when created  
 1148 | thereafter becomes irrevocable, the irrevocable trust is created  
 1149 | when the right of revocation terminates.  
 1150 |       Section 42. Paragraph (a) of subsection (2) of section

1151 736.08125, Florida Statutes, is amended to read:  
 1152 736.08125 Protection of successor trustees.—  
 1153 (2) For the purposes of this section, the term:  
 1154 (a) "Eligible beneficiaries" means:  
 1155 1. At the time the determination is made, if there are one  
 1156 or more beneficiaries as described in s. 736.0103(19)(c) s.  
 1157 ~~736.0103(16)(e)~~, the beneficiaries described in s.  
 1158 736.0103(19)(a) and (c) ~~s. 736.0103(16)(a) and (e)~~; or  
 1159 2. If there is no beneficiary as described in s.  
 1160 736.0103(19)(c) ~~s. 736.0103(16)(e)~~, the beneficiaries described  
 1161 in s. 736.0103(19)(a) and (b) ~~s. 736.0103(16)(a) and (b)~~.  
 1162 Section 43. Paragraph (d) of subsection (9) of section  
 1163 738.104, Florida Statutes, is amended to read:  
 1164 738.104 Trustee's power to adjust.—  
 1165 (9)  
 1166 (d) For purposes of subsection (8) and this subsection,  
 1167 the term:  
 1168 1. "Eligible beneficiaries" means:  
 1169 a. If at the time the determination is made there are one  
 1170 or more beneficiaries described in s. 736.0103(19)(c) ~~s.~~  
 1171 ~~736.0103(16)(e)~~, the beneficiaries described in s.  
 1172 736.0103(19)(a) and (c) ~~s. 736.0103(16)(a) and (e)~~; or  
 1173 b. If there is no beneficiary described in s.  
 1174 736.0103(19)(c) ~~s. 736.0103(16)(e)~~, the beneficiaries described  
 1175 in s. 736.0103(19)(a) and (b) ~~s. 736.0103(16)(a) and (b)~~.

1176           2. "Super majority of the eligible beneficiaries" means:  
 1177           a. If at the time the determination is made there are one  
 1178 or more beneficiaries described in s. 736.0103(19)(c) ~~s.~~  
 1179 ~~736.0103(16)(e)~~, at least two-thirds in interest of the  
 1180 beneficiaries described in s. 736.0103(19)(a) ~~s. 736.0103(16)(a)~~  
 1181 or two-thirds in interest of the beneficiaries described in s.  
 1182 736.0103(19)(c) ~~s. 736.0103(16)(e)~~, if the interests of the  
 1183 beneficiaries are reasonably ascertainable; otherwise, it means  
 1184 two-thirds in number of either such class; or

1185           b. If there is no beneficiary described in s.  
 1186 736.0103(19)(c) ~~s. 736.0103(16)(e)~~, at least two-thirds in  
 1187 interest of the beneficiaries described in s. 736.0103(19)(a) ~~s.~~  
 1188 ~~736.0103(16)(a)~~ or two-thirds in interest of the beneficiaries  
 1189 described in s. 736.0103(19)(b) ~~s. 736.0103(16)(b)~~, if the  
 1190 interests of the beneficiaries are reasonably ascertainable,  
 1191 otherwise, two-thirds in number of either such class.

1192           Section 44. Subsection (1) of section 744.3679, Florida  
 1193 Statutes, is amended to read:

1194           744.3679 Simplified accounting procedures in certain  
 1195 cases.—

1196           (1) In a guardianship of property, when all property  
 1197 ~~assets~~ of the estate is ~~are~~ in designated depositories under s.  
 1198 69.031 and the only transactions that occur in that account are  
 1199 interest accrual, deposits from a settlement, or financial  
 1200 institution service charges, the guardian may elect to file an



1201 | accounting consisting of:

1202 |       (a) The original or a certified copy of the year-end  
 1203 | statement of the ward's account from the financial institution;  
 1204 | and

1205 |       (b) A statement by the guardian under penalty of perjury  
 1206 | that the guardian has custody and control of the ward's property  
 1207 | as shown in the year-end statement.

1208 |       Section 45. The Division of Law Revision is directed to  
 1209 | replace the phrase "the effective date of this section" wherever  
 1210 | it occurs in this act with the date those sections become law.

1211 |       Section 46. If any provision of this act or the  
 1212 | application thereof to any person or circumstance is held  
 1213 | invalid, the invalidity does not affect other provisions or  
 1214 | applications of this act which can be given effect without the  
 1215 | invalid provision or application, and to this end the provisions  
 1216 | of this act are severable.

1217 |       Section 47. Except as otherwise expressly provided in this  
 1218 | act and except for this section, which shall take effect upon  
 1219 | this act becoming a law, this act shall take effect July 1,  
 1220 | 2021.