

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

27 |

28 | Section 1. Paragraph (f) of subsection (2) of section
29 | 689.225, Florida Statutes, is amended, and paragraph (g) is
30 | added to that subsection to read:

31 | 689.225 Statutory rule against perpetuities.—

32 | (2) STATEMENT OF THE RULE.—

33 | (f) As to any trust created after December 31, 2000,
34 | through June 30, 2022, this section shall apply to a nonvested
35 | property interest or power of appointment contained in a trust
36 | by substituting 360 years in place of "90 years" in each place
37 | such term appears in this section unless the terms of the trust
38 | require that all beneficial interests in the trust vest or
39 | terminate within a lesser period.

40 | (g) As to any trust created on or after July 1, 2022, this
41 | section shall apply to a nonvested property interest or power of
42 | appointment contained in a trust by substituting 1,000 years in
43 | place of "90 years" in each place such term appears in this
44 | section unless the terms of the trust require that all
45 | beneficial interests in the trust vest or terminate within a
46 | lesser period.

47 | Section 2. Paragraph (s) of subsection (2) of section
48 | 736.0105, Florida Statutes, is amended to read:

49 | 736.0105 Default and mandatory rules.—

50 | (2) The terms of a trust prevail over any provision of

51 | this code except:

52 | (s) The duty under s. 736.0813(1)(c) and (d) to provide a
53 | complete copy of the trust instrument and to account to
54 | qualified beneficiaries, except as otherwise provided in s.
55 | 736.0813(1)(d).

56 | Section 3. Subsections (4), (5), and (6) of section
57 | 736.0109, Florida Statutes, are renumbered as subsections (5),
58 | (6), and (7), respectively, subsection (1) and present
59 | subsection (4) are amended, and a new subsection (4) is added to
60 | that section, to read:

61 | 736.0109 Methods and waiver of notice.—

62 | (1) Notice to a person under this code or the sending of a
63 | document to a person under this code must be accomplished in a
64 | manner reasonably suitable under the circumstances and likely to
65 | result in receipt of the notice or document. Permissible methods
66 | of notice or for sending a document include first-class mail,
67 | personal delivery, delivery to the person's last known place of
68 | residence or place of business, a properly directed facsimile or
69 | other electronic message including e-mail, or posting on a
70 | secure electronic account or website in accordance with
71 | subsection (3).

72 | (4)(a) Notwithstanding subsection (3), a family trust
73 | company, licensed family trust company, or foreign licensed
74 | family trust company, as defined in s. 662.111, which is a
75 | trustee of the trust, may use:

76 1. Any of the permissible methods of notice or for sending
 77 a document described in subsection (1); or

78 2. A properly directed e-mail message with an attached
 79 notice or document or containing a hyperlink through which the
 80 recipient can view the notice or document.

81 (b) For purposes of this subsection, the notice or
 82 document is deemed sent only if any username, password, or other
 83 specific instructions needed to access the notice or document
 84 are communicated to the recipient either before or
 85 contemporaneously with the e-mail message containing the notice,
 86 document, or hyperlink, or upon request by the recipient.

87 (5)-(4) Notice to a person under this code, or the sending
 88 of a document to a person under this code electronically ~~by~~
 89 ~~electronic message~~, is complete when ~~the document is~~ sent.

90 (a) An electronic message is presumed received on the date
 91 that the message is sent.

92 (b) If the sender has knowledge that an electronic message
 93 did not reach the recipient, the electronic message is deemed to
 94 have not been received. The sender has the burden to prove that
 95 another copy of the notice or document was sent by electronic
 96 message or by other means authorized by this section.

97 Section 4. Subsection (5) of section 736.0303, Florida
 98 Statutes, is amended to read:

99 736.0303 Representation by fiduciaries and parents.—To the
 100 extent there is no conflict of interest between the

101 representative and the person represented or among those being
 102 represented with respect to a particular question or dispute:

103 (5) A parent may represent and bind the parent's unborn
 104 child and the unborn descendants of such unborn child, or the
 105 parent's minor child and the minor or unborn descendants of such
 106 minor child, if a guardian of the property for the unborn child,
 107 minor child, or such child's descendants has not been appointed.

108 Section 5. Subsection (1) of section 736.0409, Florida
 109 Statutes, is amended to read:

110 736.0409 Noncharitable trust without ascertainable
 111 beneficiary.—Except as otherwise provided in s. 736.0408 or by
 112 another provision of law, the following rules apply:

113 (1) A trust may be created for a noncharitable purpose
 114 without a definite or definitely ascertainable beneficiary or
 115 for a noncharitable but otherwise valid purpose to be selected
 116 by the trustee. The trust may not be enforced for more than
 117 1,000 ~~21~~ years.

118 Section 6. Subsection (1) of section 736.0813, Florida
 119 Statutes, is amended to read:

120 736.0813 Duty to inform and account.—The trustee shall
 121 keep the qualified beneficiaries of the trust reasonably
 122 informed of the trust and its administration.

123 (1) The trustee's duty to inform and account includes, but
 124 is not limited to, the following:

125 (a) Within 60 days after acceptance of the trust, the

126 trustee shall give notice to the qualified beneficiaries of the
127 acceptance of the trust, the full name and address of the
128 trustee, and that the fiduciary lawyer-client privilege in s.
129 90.5021 applies with respect to the trustee and any attorney
130 employed by the trustee.

131 (b) Within 60 days after the date the trustee acquires
132 knowledge of the creation of an irrevocable trust, or the date
133 the trustee acquires knowledge that a formerly revocable trust
134 has become irrevocable, whether by the death of the settlor or
135 otherwise, the trustee shall give notice to the qualified
136 beneficiaries of the trust's existence, the identity of the
137 settlor or settlors, the right to request a copy of the trust
138 instrument, the right to accountings under this section, and
139 that the fiduciary lawyer-client privilege in s. 90.5021 applies
140 with respect to the trustee and any attorney employed by the
141 trustee.

142 (c) Upon reasonable request, the trustee shall provide a
143 qualified beneficiary with a complete copy of the trust
144 instrument.

145 (d)1. A trustee of an irrevocable trust shall provide a
146 trust accounting, as set forth in s. 736.08135, from the date of
147 the last accounting or, if none, from the date on which the
148 trustee became accountable, to each qualified beneficiary at
149 least annually and on termination of the trust or on change of
150 the trustee.

151 2. Notwithstanding s. 736.0105 or the duties set forth in
152 this paragraph, if a family trust company, licensed family trust
153 company, or foreign licensed family trust company, as defined in
154 s. 662.111, is a trustee of an irrevocable trust, the terms of
155 the trust may permit such a trustee to only account to the
156 qualified beneficiaries upon:

157 a. The termination of the trust;

158 b. The removal, resignation, or other event resulting in a
159 trustee ceasing to serve; or

160 c. Demand of a qualified beneficiary or the representative
161 of a qualified beneficiary.

162 3. Nothing in this paragraph shall prevent a trustee that
163 is a family trust company, licensed family trust company, or
164 foreign licensed family trust company from voluntarily
165 accounting to the qualified beneficiaries annually or at other
166 times selected by such trustee.

167 (e) Upon reasonable request, the trustee shall provide a
168 qualified beneficiary with relevant information about the assets
169 and liabilities of the trust and the particulars relating to
170 administration.

171
172 Paragraphs (a) and (b) do not apply to an irrevocable trust
173 created before the effective date of this code, or to a
174 revocable trust that becomes irrevocable before the effective
175 date of this code. Paragraph (a) does not apply to a trustee who

176 accepts a trusteeship before the effective date of this code.

177 Section 7. Subsection (3) of section 736.08135, Florida
178 Statutes, is renumbered as subsection (4) and amended, and a new
179 subsection (3) is added to that section, to read:

180 736.08135 Trust accountings.—

181 (3) Notwithstanding subsections (1) and (2), if a family
182 trust company, licensed family trust company, or foreign
183 licensed family trust company, as defined in s. 662.111, is a
184 trustee of the trust, such a trustee may elect, for any
185 accounting period, to provide the qualified beneficiaries all of
186 the following information:

187 (a) A notice stating that the trustee has made an election
188 to provide the information enumerated in this subsection.

189 (b) The information required by paragraph (2)(a) and, if
190 applicable, the information required by paragraph (2)(f).

191 (c) A financial statement for the trust which summarizes
192 the information specified in paragraphs (2)(a)-(e). The
193 financial statement must contain sufficient information to put
194 the beneficiary on notice of the trust's comprehensive assets
195 and liabilities as well as the transactions occurring during the
196 accounting period. A financial statement that reports the
197 comprehensive assets and liabilities at the beginning and end of
198 the accounting period and the aggregate amounts of all cash and
199 property transactions, gains, losses, receipts, expenses,
200 disbursements, distributions, accruals, or allowances occurring

201 within the accounting period for each category of assets and
 202 liabilities, meets the requirements of this paragraph.

203
 204 For purposes of this chapter, a financial statement that a
 205 trustee provides to a beneficiary of the trust under this
 206 subsection is deemed to be a trust accounting. Any trustee that
 207 makes the election provided by this subsection shall, upon a
 208 request of any beneficiary made within the limitations period
 209 prescribed by s. 736.1008, make available the detailed
 210 information necessary for the preparation of the statement
 211 within 30 days of the date of the request, including copies of
 212 the requested information. A request by a beneficiary for the
 213 detailed information necessary for the preparation of the
 214 financial statement shall toll the running of any applicable
 215 limitations period until the detailed information is made
 216 available to the beneficiary.

217 (4)~~(3)~~ Subsections (1) and (2) govern the form and content
 218 of all trust accountings rendered for any accounting periods
 219 beginning on or after January 1, 2003, and all trust accountings
 220 rendered on or after July 1, 2018. The election provided in
 221 subsection (3) for trusts for which a family trust company,
 222 licensed family trust company, or foreign licensed family trust
 223 company, as defined in s. 662.111, is a trustee is available for
 224 any accounting periods beginning on or after July 1, 2022. This
 225 subsection does not affect the beginning period from which a

226 trustee is required to render a trust accounting.

227 Section 8. Subsection (2) of section 736.08145, Florida
 228 Statutes, is amended to read:

229 736.08145 Grantor trust reimbursement.—

230 (2) This section applies to all trusts that are governed
 231 by the laws of the state or that have a principal place of
 232 administration within the state, whether created on, before, or
 233 after July 1, 2020, unless:

234 (a) The trustee provides written notification that the
 235 trustee intends to irrevocably elect out of the application of
 236 this section, at least 60 days before the effective date of such
 237 election, to the person treated as the owner of all or a portion
 238 of the trust under s. 671 of the Internal Revenue Code or any
 239 similar federal, state, or other tax law and to all persons who
 240 have the ability to remove and replace the trustee.

241 (b) Applying this section would prevent a contribution to
 242 the trust from qualifying for, or would reduce, a federal tax
 243 benefit, including a federal tax exclusion or deduction, which
 244 was originally claimed or could have been claimed for the
 245 contribution, including:

246 1. An exclusion under s. 2503(b) or s. 2503(c) of the
 247 Internal Revenue Code;

248 2. A marital deduction under s. 2056, s. 2056A, or s. 2523
 249 of the Internal Revenue Code;

250 3. A charitable deduction under s. 170(a), s. 642(c), s.

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251 | 2055(a), or s. 2522(a) of the Internal Revenue Code; or
252 | 4. Direct skip treatment under s. 2642(c) of the Internal
253 | Revenue Code.

254 | Section 9. This act shall take effect July 1, 2022.