



503122

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/10/2022	.	
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The Committee on Banking and Insurance (Gruters) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 53 - 153  
and insert:  
qualified beneficiaries except as otherwise provided in s.  
736.0813(1)(d).

Section 3. Present subsections (4), (5), and (6) of section 736.0109, Florida Statutes, are redesignated as subsections (5), (6), and (7), respectively, a new subsection (4) is added to that section, and subsection (1) and present subsection (4) of



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11 that section are amended, to read:

12 736.0109 Methods and waiver of notice.—

13 (1) Notice to a person under this code or the sending of a  
14 document to a person under this code must be accomplished in a  
15 manner reasonably suitable under the circumstances and likely to  
16 result in receipt of the notice or document. Permissible methods  
17 of notice or for sending a document include first-class mail,  
18 personal delivery, delivery to the person's last known place of  
19 residence or place of business, a properly directed facsimile or  
20 other electronic message, including e-mail, or posting on a  
21 secure electronic account or website in accordance with  
22 subsection (3).

23 (4) Notwithstanding subsection (3), a family trust company,  
24 licensed family trust company, or foreign licensed family trust  
25 company, as defined in s. 662.111, that is a trustee of a trust  
26 may use any permissible method for providing notice or for  
27 sending a document specified in subsection (1) or may send a  
28 properly directed e-mail that contains an attached notice or  
29 document or contains a hyperlink through which the recipient can  
30 view the notice or document as a permissible method of providing  
31 notice or sending a document. For purposes of this subsection,  
32 such notice or document sent by e-mail is deemed to have been  
33 sent if any username, password, or other specific instructions  
34 needed to access the notice or document are communicated to the  
35 recipient beforehand or contemporaneously with the sending of  
36 the e-mail message containing the notice, document, or  
37 hyperlink, or upon the request of the recipient.

38 (5)~~(4)~~ Notice to a person under this code, or the sending  
39 of a document to a person under this code electronically ~~by~~



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40 ~~electronic message~~, is complete when ~~the document is~~ sent.

41 (a) An electronic message is presumed received on the date  
42 that the message is sent.

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

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

50 736.0303 Representation by fiduciaries and parents.—To the  
51 extent there is no conflict of interest between the  
52 representative and the person represented or among those being  
53 represented with respect to a particular question or dispute:

54 (5) A parent may represent and bind the parent's unborn  
55 child and the unborn descendants of such unborn child, or the  
56 parent's minor child and the minor or unborn descendants of such  
57 minor child, if a guardian of the property for the unborn child,  
58 minor child, or such child's descendants has not been appointed.

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

61 736.0409 Noncharitable trust without ascertainable  
62 beneficiary.—Except as otherwise provided in s. 736.0408 or by  
63 another provision of law, the following rules apply:

64 (1) A trust may be created for a noncharitable purpose  
65 without a definite or definitely ascertainable beneficiary or  
66 for a noncharitable but otherwise valid purpose to be selected  
67 by the trustee. The trust may not be enforced for more than  
68 1,000 ~~21~~ years.



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69 Section 6. Paragraph (d) of subsection (1) of section  
70 736.0813, Florida Statutes, is amended to read:

71 736.0813 Duty to inform and account.—The trustee shall keep  
72 the qualified beneficiaries of the trust reasonably informed of  
73 the trust and its administration.

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

76 (d) A trustee of an irrevocable trust shall provide a trust  
77 accounting, as set forth in s. 736.08135, from the date of the  
78 last accounting or, if none, from the date on which the trustee  
79 became accountable, to each qualified beneficiary at least  
80 annually and on termination of the trust or on change of the  
81 trustee. Notwithstanding s. 736.0105 or the duties under this  
82 paragraph, if a family trust company, licensed family trust  
83 company, or foreign licensed family trust company, as defined in  
84 s. 662.111, is a trustee of an irrevocable trust, the terms of  
85 the trust may permit for accounting to the qualified  
86 beneficiaries only at the termination of the trust; upon the  
87 removal, resignation, or other event resulting in a trustee  
88 ceasing to serve as a trustee; or upon demand of a qualified  
89 beneficiary or the representative of a qualified beneficiary.  
90 This paragraph may not be construed to prohibit a trustee that  
91 is a family trust company, licensed family trust company, or  
92 foreign licensed family trust company from voluntarily  
93 accounting to the qualified beneficiaries annually or at other  
94 times selected by such trustee.

95  
96 Paragraphs (a) and (b) do not apply to an irrevocable trust  
97 created before the effective date of this code, or to a



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98 revocable trust that becomes irrevocable before the effective  
99 date of this code. Paragraph (a) does not apply to a trustee who  
100 accepts a trusteeship before the effective date of this code.

101 Section 7. Present subsection (3) of section 736.08135,  
102 Florida Statutes, is redesignated as subsection (4) and amended,  
103 and a new subsection (3) is added to that section, to read:

104 736.08135 Trust accountings.—

105 (3) Notwithstanding subsections (1) and (2), if a family  
106 trust company, licensed family trust company, or foreign  
107 licensed family trust company, as defined in s. 662.111, is a  
108 trustee of the trust, such trustee may elect, for any accounting  
109 period, to provide the qualified beneficiaries with all of the  
110 following information:

111 (a) A notice stating that the trustee has made an election  
112 to provide the information described in this subsection.

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

115 (c) A financial statement for the trust which summarizes  
116 the information provided pursuant to paragraphs (2) (b)-(e). The  
117 financial statement must contain sufficient information to put  
118 the beneficiary on notice of the trust's comprehensive assets  
119 and liabilities as well as of the transactions occurring during  
120 the accounting period. A financial statement that reports a  
121 summary of the comprehensive assets and liabilities at the  
122 beginning and end of the accounting period and the aggregate  
123 amounts of all cash and property transactions, gains, losses,  
124 receipts, expenses, disbursements, distributions, accruals, or  
125 allowances occurring within the accounting period for each  
126 category of assets and liabilities meets the requirements of



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127 this paragraph.

128

129 For the purposes of this chapter, a financial statement that a  
130 trustee provides to a beneficiary of a trust under this  
131 subsection is deemed to be a trust accounting. Any trustee that  
132 makes the election provided in this subsection shall, upon  
133 request of any beneficiary made within the limitations period  
134 under s. 736.1008, make available the detailed information  
135 necessary for preparation of the financial statement to the  
136 beneficiary within 30 days after the date of such request,  
137 including providing copies of the requested information. A  
138 request by a beneficiary for the detailed information necessary  
139 for the preparation of the financial statement tolls the running  
140 of any applicable limitations period until the detailed  
141 information is made available to the beneficiary.

142 (4)~~(3)~~ Subsections (1) and (2) govern the form and content  
143 of all trust accountings rendered for any accounting periods  
144 beginning on or after January 1, 2003, and all trust accountings  
145 rendered on or after July 1, 2018. The election provided in  
146 subsection (3) for trusts for which a family trust company,  
147 licensed family trust company, or foreign licensed family trust  
148 company, as defined in s. 662.111, is a trustee is available for  
149 any accounting periods beginning on or after July 1, 2022. This  
150 subsection

151

152 ===== T I T L E A M E N D M E N T =====

153 And the title is amended as follows:

154 Delete lines 7 - 19

155 and insert:



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156 to account to qualified beneficiaries under certain  
157 circumstances; amending s. 736.0109, F.S.; clarifying  
158 circumstances under which notice, or the sending of a  
159 document, to a person under the Florida Trust Code is  
160 deemed satisfied; authorizing certain trust companies  
161 that are trustees to use specified methods for  
162 providing notice or sending a document; specifying  
163 when such notice or document is deemed sent; amending  
164 s. 736.0303, F.S.; specifying circumstances under  
165 which a parent may represent and bind the unborn  
166 descendants of his or her unborn child or the minor or  
167 unborn descendants of his or her minor child; amending  
168 s. 736.0409, F.S.; revising the timeframe for which  
169 certain noncharitable trusts may be enforced; amending  
170 s. 736.0813, F.S.; providing that the terms of a trust  
171 may permit for accounting to the qualified  
172 beneficiaries only under certain circumstances;  
173 providing construction; amending s. 736.08135, F.S.;  
174 providing an alternate procedure for trust accountings  
175 for specified trustees under certain