

RPPTL
Probate & Trust Division Roundtable Agenda
The Luminary, Fort Myers, Florida
Friday, November 5, 2021
3:30 pm - 4:30 pm

Thank you
GUARDIAN TRUST & STOUT RISIUS ROSS
for sponsoring the PT Division Roundtable

1. **Welcome --** *John Moran, Division Director*

2. **Sponsor Recognition**

A. Guardian Trust – *Travis Finchum*



B. Stout Risius Ross – *Garry Marshall*



3. **Action Item -- Trust Law Committee –** *Matt Triggs, Chair* (EC Agenda pp. 277-284)

Proposed amendments to § 736.0705, Fla. Stat. to clarify that a trust instrument may, subject to minimum notice requirements, provide an additional method by which a trustee may resign.

Committee motion to:

(A) Support proposed amendments to section §736.0705(1), Fla. Stat. to provide an additional method by which a trustee may resign; and making clear that the options set forth in the statute are alternatives, each of which may operate exclusive of the others;

(B) find that such legislative position is within the purview of the RPPTL Section; and

(C) expend Section funds in support of the proposed legislative position.

4. Information Item -- Ad Hoc Committee on Electronic Wills – *Angela M. Adams, Chair* (EC Agenda pp. 284-289)

Potential committee motion for future consideration to:

(A) Support proposed legislation which would amend §117.201, Fla. Stat., to create a definition of "witness" (when used as a noun) for purposes of remote online notarization and witnessing of electronic documents.

(B) find that such legislative position is within the purview of the RPPTL Section; and

(C) expend Section funds in support of the proposed legislative position.

5. CLE Report – *Sancha Brennan, Co-Chair*

Please see page 83 of the Executive Council Agenda for a full schedule of CLEs.

6. Legislation Report – *Larry Miller, Co-Chair*

7. New Business

8. Committee Reports (*time permitting*)

- a) **Ad Hoc ART Committee** — Alyse Reiser Comiter, Chair; Jack A. Falk and Sean M. Lebowitz, Co-Vice Chairs
- b) **Ad Hoc Committee on Electronic Wills** — Angela M. Adams, Chair; Frederick “Ricky” Hearn and Jenna G. Rubin, Co-Vice Chairs
- c) **Ad Hoc Guardianship Law Revision Committee** — Nicklaus J. Curley, Stacey B. Rubel and David C. Brennan, Co-Chairs; Sancha Brennan, Vice Chair
- d) **Ad Hoc Study Committee on Due Process, Jurisdiction & Service of Process** — Barry F. Spivey, Chair; Sean W. Kelley and Shelly Wald Harris, Co-Vice Chairs
- e) **Ad Hoc Study Committee on Professional Fiduciary Licensing** — Angela McClendon Adams, Chair; Yoshimi Smith, Vice Chair
- f) **Asset Protection** — Michael Sneeringer, Chair; Richard R. Gans and Justin Savioli, Co-Vice-Chairs

- g) **Attorney/Trust Officer Liaison Conference** — Cady L. Huss, Chair; Tae Kelley Bronner, Stacey L. Cole, Michael Rubenstein, Gail G. Fagan, Mitchell A. Hipsman and Eammon W. Gunther, Co-Vice Chairs
- h) **Charitable Planning and Exempt Organizations Committee** — Seth Kaplan, Chair; Kelly Hellmuth and Denise S. Cazobon, Co-Vice-Chairs
- i) **Elective Share Review Committee** — Jenna G. Rubin, Chair; Cristina Papanikos and Lauren Y. Detzel, Co-Vice-Chairs
- j) **Estate and Trust Tax Planning** — Robert L. Lancaster, Chair; Richard N. Sherrill and Sasha Klein, Co-Vice Chairs
- k) **Guardianship, Power of Attorney and Advanced Directives** — Stacy B. Rubel, Chair; Elizabeth M. Hughes, Caitlin Powell and Jacobeli Behar, Co-Vice Chairs
- l) **IRA, Insurance and Employee Benefits** — Alfred J. Stashis, Chairs; Charles W. Callahan, III and Rachel B. Oliver, Co-Vice-Chairs
- m) **Liaisons with ACTEC** — Elaine M. Bucher, Tami F. Conetta, Thomas M. Karr, Shane Kelley, Charles I. Nash, L. Howard Payne and Diana S.C. Zeydel
- n) **Liaisons with Elder Law Section** — Travis Finchum and Marjorie E. Wolasky
- o) **Liaisons with Tax Section** — William R. Lane, Jr., Brian Malec and Brian C. Sparks
- p) **Liaison with Professional Fiduciary Council** – Darby Jones
- q) **OPPG Delegate** – Nick Curley
- r) **Principal and Income** — Edward F. Koren and Pamela O. Price, Co-Chairs, Joloyon D. Acosta and Keith B. Braun, Co-Vice Chairs
- s) **Probate and Trust Litigation** — J. Richard Caskey, Chair; Angela M. Adams, James R. George and R. Lee McElroy, IV, Co-Vice Chairs
- t) **Probate Law and Procedure** — M. Travis Hayes, Chair; Benjamin F. Diamond, Cristina Papanikos, Theodore S. Kypreos, and Cady Huss, Co-Vice Chairs
- u) **Trust Law** — Matthew H. Triggs, Chair; David J. Akins, Jenna G. Rubin, Mary E. Karr, and Jennifer J. Robinson, Co-Vice Chairs
- v) **Wills, Trusts and Estates Certification Review Course** — Rachel Lunsford, Chair; J. Allison Archbold, Eric Virgil, and Jerome L. Wolf, Co-Vice Chairs

9. Adjournment



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Probate & Trust Division Roundtable Report

November 5, 2021, Fort Myers, Florida

Legislation Item - Proposed Trust Legislation.

(Note: This is not a RPPTL initiative.)

As many of you are already aware, we are expecting to see proposed legislation aimed at changing several provisions of the Florida Trust Code, specifically those including the requirement that trustees prepare mandatory annual accountings, the format of accountings, the rule of perpetuities, and others.

The RPPTL Legislation Committee has already reviewed the legislation and engaged in discussions with the proponents. Specifically, we have raised several serious concerns about the proposed legislation, and in particular, the proposal to change the mandatory accounting requirement.

The discussions are ongoing, but attached please find the following for your information:

1. **Bill Draft 23-00531A-22.** This is the substantive portion of the proposed legislation dealing with accountings, etc.
2. **Bill Draft 23-00530-22.** This is the portion of the proposed legislation dealing with confidentiality and public records issues.
3. **RPPTL's Initial Comment and Technical Concerns with the Proposed Legislation (last updated 9/23/2021).** This Report deals with an earlier draft (these bills above were originally packaged as only one bill) but the substantive issues are mostly the same. As noted above, the Legislation Committee has had further discussions with the proponents and has made it clear that several provisions are very problematic, specifically those dealing with changes to the mandatory accounting rules.

23-00531A-22

0 A bill to be entitled
1 An act relating to trusts; amending s. 689.225, F.S.;
2 revising criteria for application of the rule against
3 perpetuities to trusts created on or after a specified
4 date; amending s. 736.0105, F.S.; specifying that the
5 terms of a trust do not prevail over a trustee's duty
6 to account to qualified beneficiaries upon termination
7 of the trust; amending s. 736.0109, F.S.; clarifying
8 circumstances under which notice, or the sending of a
9 document, to a person under the Florida Trust Code is
10 deemed satisfied; amending s. 736.0303, F.S.;
11 specifying circumstances under which a parent may
12 represent and bind the unborn descendants of his or her
13 unborn or minor child; amending s. 736.0409, F.S.;
14 revising the timeframe for which certain noncharitable
15 trusts may be enforced; amending s. 736.0505, F.S.;
16 adding to the types of trusts the assets of which shall
17 be treated as contributed by the settlor's spouse after
18 the settlor's death; amending s. 736.08135, F.S.;
19 providing an alternate procedure for trust accountings
20 for family trust companies under certain circumstances;
21 specifying requirements and applicability; amending s.
22 736.08145, F.S.; clarifying the application of law
23 governing grantor trust reimbursement; providing an
24 effective date.

25
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 added

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30to 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, through
34June 30, 2022, this section shall apply to a nonvested property
35interest or power of appointment contained in a trust by
36substituting 360 years in place of “90 years” in each place such
37term appears in this section unless the terms of the trust
38require that all beneficial interests in the trust vest or
39terminate within a lesser period.

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

46 Section 2. Paragraph (s) of subsection (2) of section
47736.0105, Florida Statutes, is amended to read:

48 736.0105 Default and mandatory rules.—

49 (2) The terms of a trust prevail over any provision of this
50code except:

51 (s) The duty under s. 736.0813(1)(c) and (d) to provide a
52complete copy of the trust instrument and to account to qualified
53beneficiaries on termination of the trust.

54 Section 3. Subsections (1) and (4) of section 736.0109,
55Florida Statutes, are amended to read:

56 736.0109 Methods and waiver of notice.—

57 (1) Notice to a person under this code or the sending of a
58document to a person under this code must be accomplished in a

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59manner reasonably suitable under the circumstances and likely to
60result in receipt of the notice or document. Permissible methods
61of notice or for sending a document include first-class mail,
62personal delivery, delivery to the person's last known place of
63residence or place of business, a properly directed facsimile or
64other electronic message which includes, but is not limited to,
65e-mail, or posting on a secure electronic account or website in
66accordance with subsection (3). A properly directed e-mail
67message with an attached notice or document or an included
68hyperlink through which the recipient can view a notice or
69document is a permissible method of notice, regardless of whether
70compliance with subsection (3) is achieved or a password is
71necessary to access the notice or document.

72 (4) Notice to a person under this code, or the sending of a
73document to a person under this code by electronic message,
74including e-mail with an attached notice or document or an
75included hyperlink through which the recipient can access the
76notice or document, is complete when the notice or document is
77sent.

78 (a) An electronic message is presumed received on the date
79that the message is sent.

80 (b) If the sender has knowledge that an electronic message
81did not reach the recipient, the electronic message is deemed to
82have not been received. The sender has the burden to prove that
83another copy of the notice or document was sent by electronic
84message or by other means authorized by this section.

85 Section 4. Subsection (5) of section 736.0303, Florida
86Statutes, is amended to read:

87 736.0303 Representation by fiduciaries and parents.—To the

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88extent there is no conflict of interest between the
89representative and the person represented or among those being
90represented with respect to a particular question or dispute:

91 (5) A parent may represent and bind the parent's unborn
92child and the unborn descendants of that unborn child, or the
93parent's minor child and the minor or unborn descendants of the
94minor child, if a guardian of the property for the unborn child,
95minor child, or their descendants has not been appointed.

96 Section 5. Subsection (1) of section 736.0409, Florida
97Statutes, is amended to read:

98 736.0409 Noncharitable trust without ascertainable
99beneficiary.—Except as otherwise provided in s. 736.0408 or by
100another provision of law, the following rules apply:

101 (1) A trust may be created for a noncharitable purpose
102without a definite or definitely ascertainable beneficiary or for
103a noncharitable but otherwise valid purpose to be selected by the
104trustee. The trust may not be enforced for more than 1,000 ~~21~~
105years.

106 Section 6. Present subsection (3) of section 736.08135, is
107redesignated as subsection (4) and amended, and a new subsection
108(3) is added to that section, to read:

109 736.08135 Trust accountings.—

110 (3) Notwithstanding subsections (1) and (2), a family trust
111company, as defined in s. 662.111, may elect, for any accounting
112period, to provide a statement to any beneficiary which indicates
113that the family trust company has made such an election for that
114period and which includes the following:

115 (a) The information required by paragraph (2) (a) and, if
116applicable, the information required by paragraph (2) (f); and

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117 (b) A financial report of the trust prepared by a certified
118 public accountant which summarizes the information specified in
119 paragraphs (2) (b)-(e).

120

121 For purposes of this chapter, a statement that a family trust
122 company provides to a beneficiary of the trust pursuant to this
123 subsection is deemed to be a trust accounting that adequately
124 discloses the information required in subsection (2). Any family
125 trust company that makes the election provided in this subsection
126 shall, upon request of any beneficiary of the trust within the
127 limitations period prescribed by s. 736.1008, make available the
128 information necessary for preparation of the statement to the
129 beneficiary within ~~the limitations period prescribed by s.~~
130 ~~736.1008~~30 days.

131 (4)(3) Subsections (1) and (2) govern the form and content
132 of all trust accountings rendered for any accounting periods
133 beginning on or after January 1, 2003, and all trust accountings
134 rendered on or after July 1, 2018. The election provided in
135 subsection (3) for family trust companies is available for any
136 accounting periods beginning on or after January 1, 2021. This
137 subsection does not affect the beginning period from which a
138 trustee is required to render a trust accounting.
139

140 Section 7. Paragraphs (a) and (b) of subsection (3) of
141 section 736.0505, Florida Statutes, are amended and redesignated
142 as paragraphs (a) and (c) and a new paragraph (b) is added to
143 that section, to read:

144 736.0505 Creditors' claims against settlor.-

145 (3) Subject to the provisions of s. 726.105, for purposes of

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146 this section, the assets in:

147 (a) A trust described in s. 2523(e) of the Internal Revenue
148 Code of 1986, as amended, or a trust for which the election
149 described in s. 2523(f) of the Internal Revenue Code of 1986, as
150 amended, has been made; and

151 (b) An irrevocable trust not otherwise described in
152 paragraph (a) in which the settlor's spouse is a beneficiary
153 described in s. 736.0103(19) (a); or

154 ~~(b)~~ (c) Another trust, to the extent that the assets in the
155 other trust are attributable to a trust described in paragraph
156 (a) or (b),

157 shall, after the death of the settlor's spouse, be deemed to have
158 been contributed by the settlor's spouse and not by the settlor.

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

161 736.08145 Grantor trust reimbursement.—

162 (2) This section applies to all trusts that are governed by
163 the laws of this state or that have a principal place of
164 administration within this state, whether created on, before, or
165 after July 1, 2020, unless:

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

173 (b) Applying this section would prevent a contribution to
174 the trust from qualifying for, or would reduce, a federal tax

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175benefit, including a federal tax exclusion or deduction, which
176was originally claimed or could have been claimed for the
177contribution, including:

178 1. An exclusion under s. 2503(b) or s. 2503(c) of the
179Internal Revenue Code;

180 2. A marital deduction under s. 2056, s. 2056A, or s. 2523
181of the Internal Revenue Code;

182 3. A charitable deduction under s. 170(a), s. 642(c), s.
1832055(a), or s. 2522(a) of the Internal Revenue Code; or

184 4. Direct skip treatment under s. 2642(c) of the Internal
185Revenue Code.

| 186 Section ~~8~~9. This act shall take effect July 1, 2022.
187

23-00530-22

A bill to be entitled
An act relating to public records; creating ss.
733.6041 and 736.0208, F.S.; making the identities of
beneficiaries and specified individuals and certain
documents in estate and trust proceedings,
respectively, confidential and exempt; requiring the
court to seal any documents filed with the court in
such proceedings; prohibiting the court from releasing
to the public any of the sealed documents or
information contained therein; requiring the court to
release such documents and information to specified
individuals; providing a statement of public
necessity; providing an effective date.

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

Section 1. Section 733.6041, Florida Statutes, is created
to read:

733.6041 Confidentiality of estate proceedings and other
filings.—In a proceeding related to a decedent's estate, the
identity of any beneficiaries and all information relating to
the estate are confidential and exempt from s. 119.07(1) and s.
24(a), Art. I of the State Constitution and must be protected by
the court in any proceeding or filing related to the estate. The
court shall seal any document filed with the court in the estate
proceeding, including, but not limited to, the will; any
petitions, briefs, or inventories; any statements or reports by
a personal representative; any court orders; and any other
documents contained within the court case file. The court may

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not release to the public any of the sealed documents or
information contained therein, but shall make them available to
the following individuals:

(1) A personal representative of the estate.

(2) A beneficiary of the estate.

(3) An attorney for a personal representative or
beneficiary of the estate.

(4) Any other person if, upon a showing of a specific
interest in the estate, the court determines there is a
compelling need for releasing the information requested.

Section 2. Section 736.0208, Florida Statutes, is created
to read:

736.0208 Confidentiality of trust proceedings and other
filings.—In trust proceedings, the identities of those who
establish, administer, or benefit from a trust and any
information relating to the trust are confidential and exempt
from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
and must be protected in any court proceeding or filing related
to the trust. The court shall seal any document filed with the
court in the trust proceeding, including, but not limited to,
the instrument on which the trust is based; any petitions,
briefs, or inventories; any statement or report filed by a
fiduciary; any court orders; and any other document in the court
case file. The court may not release to the public any of the
sealed documents or information contained therein, but shall
make them available to the following individuals:

(1) The settlor.

(2) Any fiduciary for the trust.

(3) Any beneficiary of the trust.

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59 (4) An attorney for a fiduciary or beneficiary of the
60 trust.

61 (5) Any other person if, upon a showing of a specific
62 interest in the trust, the court determines there is a
63 compelling need for releasing the information requested.

64 Section 3. The Legislature finds that it is a public
65 necessity that estate and trust proceedings be made confidential
66 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
67 Article I of the State Constitution. Estate and trust
68 proceedings often involve large sums of money or vulnerable
69 people who could be targeted for exploitation or abuse. Public
70 disclosure of sensitive family and financial information in
71 estate or trust proceedings can result in specific harm to
72 beneficiaries and other interested parties in such cases.
73 Therefore, the Legislature finds that the need to protect the
74 identities of beneficiaries of estates or trusts and sensitive
75 financial information contained in such proceedings is
76 sufficiently compelling to override the state's public policy of
77 open government and that the protection of such information
78 cannot be accomplished without this exemption.

79 Section 4. This act shall take effect July 1, 2022.

Proposed Revisions to Existing Florida Trust Code Provisions (Sections 736.0105; 736.0109; 736.0303; 736.0409; 736.08135; 736.08145; and 689.225, Florida Statutes)

and

Proposals for “Sealing” of Probate and Trust Proceedings

(Proposed new statutes: 733.6041 And 736.0208)

Comments and Technical Concerns

(offered by the Real Property, Probate and Trust Law Section of The Florida Bar)

(9/23/2021)

Proposed revisions to the Florida Trust Code (Chapter 736 of Florida Statutes) have been submitted by Ballard Partners for comment by the Real Property, Probate and Trust Law Section of the Florida Bar. We thank Ballard Partners for the opportunity to review, comment and discuss the proposals along with the applicable summary (regarding the Trust Code and rule against perpetuities provisions) and the White Paper (as to the new “sealing” of proceedings statutes). Our comments and concerns are set forth for each proposed revision to existing law and for each of the newly proposed statutes regarding the sealing of Florida probate and trust proceedings. As to each proposal, we have included our positive comments, posed questions as to those provisions that we believe would benefit from clarification and have set forth some observations as to those that spawn concerns both as to direct and unintended consequences. In keeping with our charge, our responses, comments and observations are aimed at assisting in the development of probate and trust law and to serve the public generally and The Florida Bar in interpreting and carrying out the public and professional needs and objectives in the fields of real property, probate and trust law.

Section 736.0105(2)(s), Florida Statutes. The proposed revision seeks to change the timing for discharging the trustee’s mandatory duty to provide a complete copy

of the applicable trust instrument to a beneficiary upon request, and an annual accounting to qualified beneficiaries (who are defined in the Trust Code) under s.736.013(1)(c), to the date of termination of the trust. We note the following observations, questions, comments, and concerns:

- This modification appears to represent a substantial departure from the protections afforded a qualified beneficiary under present and previous case law and statutory provisions. The existing, unmodified statutory provisions trace back to well before the prior trust law/statutory provisions of Chapter 737.
- Query whether this change in mandatory trustee duty would create an issue for trustees, as well, in that the failure to account as presently required, would unwittingly compound a trustee's possible exposure to claims of breach and liability at a later date.
- This change, when coupled with the extended Rule Against Perpetuities provisions of the proposed revisions, seems to suggest that it is possible that no accounting would be done for 1000 years. Is that what is intended? If so, does the potential absence of a mandatory accounting requirement result in the unintended consequence of increasing the burden on a successor trustee to possibly pursue a predecessor for malfeasance or breach of trust which would only be disclosing in an accounting?
- We acknowledge that there may be concerns as to undue or unnecessary expense and delay which can arise when an annual accounting is required (though we do not follow that thinking as to the provision of a copy of a trust instrument). That said, would this delayed "non-mandatory" approach unintentionally erode the meaningful protection of both the trustee and beneficiary that mandatory accountings may provide?

- We are unclear if the proposed amendment may create confusion as to whether or not the suggested statutory modification permits a qualified beneficiary to effectively demand that an accounting be done by a trustee under other provisions of the Trust Code, prior to the termination of the trust. Is there a way to clarify this? Perhaps a definition of the “date of termination” for a trust would help alleviate this question?

Section 736.0109, (1) and (4), Florida Statutes. The proposed revisions seek to expand the definition of “electronic message” as a permitted method of service of notice or for sending a document, to include without limitation, electronic mail and to include use of a hyperlink for the recipient’s accessing documents rather than requiring the attachment of such documents to an email or electronic message and also eliminates the requirement that an electronic message comply with the provisions of subsection (3) for posting documents and accessing them on an electronic account or website. We note as follows:

- These modifications appear to be aimed at taking advantage of more efficient uses of technology for service purposes and we believe the idea is timely and practical.
- We, do, however, have some questions (which in part arise from deleting the subsection (3) requirements) as to assuring that recipients have *actually* received and had the opportunity to review such documents (i.e., have been able to access electronically served or accessible documents and to thereby gain the information intended for their benefit). We wonder if there is a way to allow use of the hyperlink while confirming receipt by the beneficiary? Perhaps one way to address this is to define some of the key terms (e.g., “hyperlink” and “electronic mail”).

Section 736.0303(5), Florida Statutes. The proposed revision seeks to expand available “representation” to include multiple generations without limitation or

restriction of representation to only descendants of living adult beneficiaries and minor or unborn beneficiaries with living adult parents.

- If we are understanding this correctly, this appears to be an effort to clarify, and we are generally in agreement. That said, we would like to confirm or consider whether it is duplicative or overlaps with 736.0304.
- We strongly agree with the proposed continuing limitation on representation in this circumstance if a conflict of interest exists.

Section 736.0409(1), Florida Statutes. This proposal seeks to expand the limitations on the duration of a Florida “purpose trust” from 21 years to 1000 years.

- If we are understanding this correctly, we are not opposed to this concept. However, it would be helpful for us to understand the specific purpose of this proposed change, and to have some clarification as to what is meant by the phrase “may not be enforced” for more than 21 or 1000 years.

Section 736.08135, (3) and (4), Florida Statutes. This proposed revision seeks to allow a family trust company to provide a financial report prepared by a certified public accountant (which summarizes accounting information) in lieu of a formal trust accounting as would otherwise be required by statute. We note the following observations, questions, comments, and concerns:

- If we are understanding this correctly, there does not appear to be a stated or indicated basis for a distinction to be made between other Florida trustees and the fiduciary responsibilities of a family trust company acting in such capacity. In that many issues arising out of trust administration occur among members of the same family, we question whether treating a family trust company situation differently than other trust situations regarding financial reporting makes sense from the perspective of the beneficiary (especially considering the proposed revision to FS 736.0105(2)(s) regarding accountings upon

trust termination). Can the report replacement for an accounting be the source of other trustees demanding similar statutory treatment and thereby completely alleviating the need for a formal accounting? What is intended with respect to what is to be included in such a financial report/statement? What is it to look like and when would it be due?

- Is this proposal intended to prevent beneficiaries from demanding an accounting or demanding back up or additional information forming the basis for the proposed CPA report, regardless of the use of the short form accounting replacement? It doesn't appear to us to be the case, but it would be helpful to have confirmation.
- We have some concern regarding the impact of the effective date provisions.

Section 736.08145 (2), Florida Statutes. This proposed revision attempts to clarify and thereby potentially extend those grantor trusts to which the grantor reimbursement provisions of this statutory section apply.

- We understand and believe that the intention of this revision is appropriate. That said, we think this change may require other corresponding changes to Florida law in order to avoid confusion and conflicting provision (e.g. the application of the principal place of administration).

We are continuing to look at this.

Section 689.225, Florida Statutes. This proposed revision seeks to amend Florida's Uniform Statutory Rule Against Perpetuities by extending the number of years that certain property interests have in order to validly vest from 360 years to 1000 years for certain trusts created after June 30, 2022.

- We are not opposed to this in concept, but again, believe that this proposed revision needs to be thoroughly cross referenced with

other statutory sections to avoid conflict and confusion in application.

Section 733.6041 and 736.0208, Florida Statutes (proposed new statutes). These proposed new statutory sections seek to make court records relating to estate and trust proceedings presumptively confidential and exempt from public disclosure. We note the following observations, questions, comments, and concerns:

- Our initial reaction is that these changes are not necessary given current statutory and related provisions, which provide case by case judicial determination of matters that require privacy and confidentiality.
- Aside from existing protection mechanisms, we are concerned that these changes may be over-broad in their potential impact on interested persons, including beneficiaries, creditors and others. For example, we think this could result in potential difficulties in accessing relevant title and related information and places an additional and substantial burden on the title industry and those involved in determining title as well as the transactions and matters that depend on such information.
- In addition, certain of the terms used in these proposed sections are not defined and are not customarily used in Florida.

**REAL PROPERTY, PROBATE & TRUST LAW SECTION
PROBATE & TRUST LAW DIVISION**

NAME OF COMMITTEE:

COMMITTEE CHAIR'S ANNUAL REPORT: 2021 - 2022
DUE TO DIVISION DIRECTOR BY Friday, December 17, 2021

NAME	E-MAIL ADDRESS	TELEPHONE NUMBER(S)
Chair:		
Co-Chair:		
Vice-Chair:		
Vice-Chair:		
Vice-Chair:		

Thank you for volunteering to serve as chair of your committee. It is necessary to obtain meaningful input from each chair to assess the work of the Section's committees, to consider leadership of each committee, both in the immediate future and longer term, and to help assess the effectiveness of committees. Each committee chair is completing this form. Candid responses are appreciated.

This form is being sent to you in WORD format to allow you to type in your answers to each question immediately following the question and add more space as you need. For ease of review, please type your answers **in bold text**.

Please email the completed form no later than Friday, December 17, 2021 to John Moran at jmoran@gunster.com. Please also attach a copy of your committee member attendance roster.

THIS REPORT WILL BE KEPT CONFIDENTIAL BY THE SECTION OFFICERS

1. Please provide the following information regarding your committee since July 1, 2021:
a) How many times has your committee met?
b) How many committee meetings have been face-to face?
c) How many committee meetings have been conducted telephonically?
d) What is the size of your committee and, approximately how many committee members attend your meetings?
e) Have you conducted any face-to-face committee meetings at locations other than Executive Council meeting sites? YES / NO If you answered YES, please provide details:
f) Do you purge your committee roster for non-attendance? YES / NO
g) Do your committee meetings include continuing education presentations, such as a presentation of recent cases of interest? YES / NO If YES please provide details:
2. Since July 1, 2021, what have been the committee's accomplishments, and for each state the name of the manager(s) of that project, and your evaluation of the project management, including: quality of final product, timeliness, efficiency, and ability to work with others?
3. List each pending committee project, including legislative initiatives. For each project please provide the following information: <i>Please copy and paste the table, if you have additional projects.</i>
NAME OF PROJECT:
a) A brief description of the project.
b) The name of the person or persons responsible for managing the matter and evaluate each person's performance, including: quality of final product, timeliness, efficiency, and ability to work with others.
c) The status of the Project.
NAME OF PROJECT:
a) A brief description of the project.
b) The name of the person or persons responsible for managing the matter and evaluate each person's performance, including: quality of final product, timeliness,

efficiency, and ability to work with others.			
c) The status of the Project.			
4. With respect to each vice-chair for the committee, please provide the following information: <table border="1"> <tr> <td> a) What responsibilities does the vice-chair have? </td> </tr> <tr> <td> b) Which meetings since July 1, 2021, has the vice-chair missed? Does the vice-chair volunteer to assist with projects? Which? Evaluate, including: quality of final product, timeliness, efficiency, and ability to work with others. </td> </tr> <tr> <td> c) Do you feel the vice-chair should continue as vice-chair? Do you believe the vice-chair has the potential to be the chair of this committee or another committee? If not, then why not? What communications have you had with the vice-chair concerning this question? </td> </tr> </table>	a) What responsibilities does the vice-chair have?	b) Which meetings since July 1, 2021, has the vice-chair missed? Does the vice-chair volunteer to assist with projects? Which? Evaluate, including: quality of final product, timeliness, efficiency, and ability to work with others.	c) Do you feel the vice-chair should continue as vice-chair? Do you believe the vice-chair has the potential to be the chair of this committee or another committee? If not, then why not? What communications have you had with the vice-chair concerning this question?
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b) Which meetings since July 1, 2021, has the vice-chair missed? Does the vice-chair volunteer to assist with projects? Which? Evaluate, including: quality of final product, timeliness, efficiency, and ability to work with others.			
c) Do you feel the vice-chair should continue as vice-chair? Do you believe the vice-chair has the potential to be the chair of this committee or another committee? If not, then why not? What communications have you had with the vice-chair concerning this question?			
5. Over the course of a year, opportunities arise in committees to assign projects to relatively new committee members who have indicated an interest in getting more involved. Please identify what efforts you made to make such assignments to committee members who are relatively new to the committee and describe how well they have performed their assigned responsibilities, including: quality of final product, timeliness, efficiency, and ability to work with others.			
6. One job of a committee chair is to identify members who have the ability, interest and potential to move into leadership positions in the committee. List <i>at least 2</i> committee members (other than the current vice chair(s)) who might be appointed as a vice chair of this Committee, or who have potential and interest to be a future vice chair and explain why. (You may list a non-member of the Committee but appointment of that person as a vice chair would be unusual.)			
7. Do you wish to be reappointed as Committee chair? YES / NO Why or why not? <i>(The usual practice is that chairs will NOT be reappointed to the same position after serving 3 – 5 years. If you have served two years as chair, then consideration of the order of succession is critical.)</i>			
8. Who do you believe is your most likely successor as Chair and why?			
Should the committee be merged with another committee, dissolved, have its name changed, have its purpose adjusted? If so, please explain in detail.			

9. Legislation is a critical and high profile Section product. As the Section has been involved in significantly greater number of proposals, to assist committees in the detailed time consuming drafting process the Section is reviewing the drafted process. One method to assist chairs is to train at least one committee member to act as a liaison with the Section's Legislative Committee to assist in the drafting process. Who would you recommend to serve as your committee's Legislative Committee liaison? You can name more than one person.)

10. Is the committee website being regularly updated with committee minutes, agenda and other materials? **YES / NO**

a) Who is responsible for updating the Committee's webpage?

b) How has this person performed, including: timely, efficient, and able to work well with others?

c) If there is none, who do you recommend for the position? You can name more than one person.

11.

a) Has the committee scheduled any full or half day CLE seminars during the period of July 1, 2021 to June 30, 2022? **YES / NO**

If YES, please describe subject, dates and who is responsible for organizing.

Subject:	Length/Date:	Who Organized:

b) Has your committee has scheduled any one hour lunchtime CLE webinars? **YES / NO**

If YES, please describe subject, dates and who is responsible for organizing.

Subject:	Date:	Who Organized:

c) If **NO** CLE seminars are planned, why not?

12. Have committee members published any substantive articles in ActionLine or in the Florida Bar Journal during the last year? If so, please state the author's name and the subject matter and whether the article was published in ActionLine or the Bar Journal.

Name of Author:	Subject Matter:	Action Line or Bar Journal:

If the committee has recommended an action item be approved by the Executive Council and no ActionLine article was submitted on that item, why not?

13. Have you designated a committee member to work with the editors of ActionLine and the Florida Bar Journal, and if so, please identify. If you have not designated anyone for these capacities, please suggest at least one person for each publication.

14. Is there anything the Section can do to improve member communications, assist committee, or otherwise improve the operation or advance the mission of the Section?

15. Please state if there are any other matters that the Division Chair or Chair-Elect should know and whether you wish for it to be discussed on a confidential basis only.

Your Section officers are grateful to you for your leadership and for taking the time to complete this questionnaire. If there are any issues you wish to bring to our attention which are not within the scope of this form, feel free to add additional comments here or contact us.

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