

**PRINCIPAL AND INCOME COMMITTEE
OF
THE REAL PROPERTY, PROBATE AND TRUST LAW SECTION
OF THE FLORIDA BAR**

**WHITE PAPER ON PROPOSED CHANGES
TO
THE FLORIDA UNIFORM FIDUCIARY INCOME AND PRINCIPAL ACT
(Chapter 738)**

I. SUMMARY

The proposed legislation makes corrective changes to Florida’s Uniform Fiduciary Income and Principal Act (“UFIPA”), Chapter 738 of the Florida Statutes,¹ which was adopted in 2024.

II. CURRENT SITUATION

In 2024, Florida adopted UFIPA. During the legislative process, certain provisions of UFIPA diverged from the intended language. In addition, practitioners working with UFIPA have discovered provisions of UFIPA that now warrant clarifications.

III. EFFECT OF PROPOSED CHANGES

The proposed legislation corrects provisions of UFIPA that diverged from the intended language during the legislative process and makes clarifications now warranted by practitioners' experience working with UFIPA.

- A. Sections 738.201(1)(a), 738.203(5)(e), 738.505(3) and 738.508(3) are changed to delete a mistakenly added word.
- B. Section 738.303(1)(b) is changed to correct a mistakenly altered word.
- C. Section 738.201(6), a holdover provision from the prior statute, is deleted as no longer necessary as the provision is now covered by Sections 738.104 and 738.804.
- D. Section 738.409(1)(b) is changed to clarify that the definition of marital trust includes inter vivos QTIP trusts and state law marital trusts.
- E. Section 738.413 is changed to clarify that a spouse’s right to require that property be made productive of income applies to all trusts created by an election to take

¹ All references are to the Florida Statutes.

an elective share.

- F. Section 738.506(5) is modified to clarify the treatment of a reimbursement of federal or state income tax pursuant to Section 736.08145.
- G. Section 738.804 is modified to clarify that UFIPA applies to receipts received and disbursements made on or after January 1, 2025 and to provide transition rules for undistributed income as of December 31, 2024, lookback periods that include accounting periods prior to January 1, 2025 and determining whether additional money or property received from an investment entity would have been considered income in accounting periods prior to January 1, 2025.

IV. FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS

The proposed legislation should not have a fiscal impact on state and local governments.

V. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR

Adoption of the proposed legislation would benefit members of the private sector by creating greater certainty.

VI. CONSTITUTIONAL ISSUES

It is not anticipated that this legislation will raise constitutional issues.

VII. OTHER INTERESTED PARTIES

In preparing this proposal, this committee worked with the Florida Bankers Association and the Florida Institute of CPAs. This committee has also consulted with the Tax Section of the Florida Bar and members of the Tax Section were members of this committee.