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# **Civil Justice & Claims Subcommittee**

**February 23, 2017**

**9:30 AM**

**404 HOB**

**Action Packet**

**Richard Corcoran  
Speaker**

**Heather Fitzenhagen  
Chair**

**COMMITTEE MEETING REPORT**  
**Civil Justice & Claims Subcommittee**

**2/23/2017 9:30:00AM**

**Location:** Sumner Hall (404 HOB)

**Summary:**

**Civil Justice & Claims Subcommittee**

*Thursday February 23, 2017 09:30 am*

HB 399	Favorable With Committee Substitute	Yeas: 12	Nays: 1
	Amendment 572113 Adopted Without Objection		
	Amendment 172745 Adopted Without Objection		
HB 469	Favorable With Committee Substitute	Yeas: 11	Nays: 4
	Amendment 133613 Adopted Without Objection		
HB 471	Favorable With Committee Substitute	Yeas: 14	Nays: 0
	Amendment 785549 Adopted Without Objection		
PCS for HB 481	Favorable With Amendment(s)	Yeas: 14	Nays: 0
	Amendment PCS for HB 481 a1 Adopted Without Objection		

**Committee meeting was reported out: Thursday, February 23, 2017 2:23:24PM**

**COMMITTEE MEETING REPORT**  
**Civil Justice & Claims Subcommittee**

**2/23/2017 9:30:00AM**

**Location:** Sumner Hall (404 HOB)

**Attendance:**

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Heather Fitzenhagen (Chair)	X		
Daniel Burgess, Jr.	X		
Colleen Burton	X		
Cord Byrd	X		
John Cortes	X		
Ben Diamond	X		
Jay Fant	X		
Erin Grall	X		
Shawn Harrison	X		
George Moraitis, Jr.	X		
Sean Shaw	X		
Cynthia Stafford	X		
Jackie Toledo	X		
Barbara Watson	X		
Frank White	X		
<b>Totals:</b>	<b>15</b>	<b>0</b>	<b>0</b>

Committee meeting was reported out: Thursday, February 23, 2017 2:23:24PM

**COMMITTEE MEETING REPORT**  
**Civil Justice & Claims Subcommittee**

**2/23/2017 9:30:00AM**

**Location:** Sumner Hall (404 HOB)

**HB 399 : Guardianship**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daniel Burgess, Jr.	X				
Colleen Burton	X				
Cord Byrd	X				
John Cortes	X				
Ben Diamond	X				
Jay Fant	X				
Erin Grall	X				
Shawn Harrison	X				
George Moraitis, Jr.		X			
Sean Shaw	X				
Cynthia Stafford	X				
Jackie Toledo	X				
Barbara Watson	X				
Frank White				X	
Heather Fitzenhagen (Chair)			X		
<b>Total Yeas: 12</b>		<b>Total Nays: 1</b>			

**HB 399 Amendments**

**Amendment 572113**

*Adopted Without Objection*

**Amendment 172745**

*Adopted Without Objection*

**Appearances:**

Guardianship  
 Finkbeiner, Brittany (Lobbyist) - Waive In Support  
 Florida Bar, Real Property Probate & Trust Law Section  
 215 S Monroe St Suite 815  
 Tallahassee FL 32301-18  
 Phone: (850) 999-4100

Guardianship  
 Cherry, Bryan (Lobbyist) - Waive In Support  
 Florida Public Guardian Coalition, Inc.  
 Associate  
 205 S Adams St  
 Tallahassee FL 32301  
 Phone: (850) 544-5673

Committee meeting was reported out: Thursday, February 23, 2017 2:23:24PM

**COMMITTEE MEETING REPORT**  
**Civil Justice & Claims Subcommittee**

**2/23/2017 9:30:00AM**

**Location:** Sumner Hall (404 HOB)

**HB 399 : Guardianship (continued)**

**Appearances: (continued)**

Guardianship

Jogerst, Brian (Lobbyist) - Waive In Support

Academy of Florida Elder Law Attorneys

PO Box 11094

Tallahassee FL 32302-30

Phone: (850) 222-0191

Guardianship

Barker, Dorene (Lobbyist) - Waive In Support

AARP

Associate State Director

200 W College Ave Suite 304

Tallahassee FL 32301

Phone: (850) 510-3145

**Committee meeting was reported out: Thursday, February 23, 2017 2:23:24PM**



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	✓	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

*Adopted Without Objection*

1 Committee/Subcommittee hearing bill: Civil Justice & Claims  
 2 Subcommittee  
 3 Representative Diamond offered the following:

**Amendment (with title amendment)**

Remove lines 56-90 and insert:

7 the petitioner and the attorney for the alleged incapacitated  
 8 person, by electronic mail delivery or U.S. mail, and, upon  
 9 service, shall file a certificate of service in the incapacity  
 10 proceeding. The petitioner and the attorney for the alleged  
 11 incapacitated person must be served with all reports at least 10  
 12 days before the hearing on the petition. If such service is not  
 13 timely effectuated, the petitioner or the alleged incapacitated  
 14 person may move for a continuance of the hearing ~~A copy of each~~  
 15 ~~committee member's report must be served on the petitioner and~~  
 16 ~~on the attorney for the alleged incapacitated person within 3~~



Amendment No. 1

17 ~~days after the report is filed and at least 5 days before the~~  
18 ~~hearing on the petition.~~

19 (i) The petitioner and the alleged incapacitated person  
20 may object to the introduction into evidence of all or any  
21 portion of the examining committee members' reports by filing  
22 and serving a written objection on the other party no later than  
23 5 days before the adjudicatory hearing. The objection must state  
24 the basis upon which the challenge to admissibility is made. If  
25 an objection is timely filed and served, the court shall apply  
26 the rules of evidence in determining the reports' admissibility.  
27 For good cause shown, the court may extend the time to file and  
28 serve the written objection.

29 (5) ADJUDICATORY HEARING.—

30 (a) Upon appointment of the examining committee, the court  
31 shall set the date upon which the petition will be heard. The  
32 ~~date for the~~ adjudicatory hearing must be conducted at least 10  
33 days, but no more than 30 days, after the filing of the last  
34 filed report of the examining committee members ~~set no more than~~  
35 ~~14 days after the filing of the reports of the examining~~  
36 ~~committee members,~~ unless good cause is shown. The adjudicatory  
37 hearing must be conducted at the time and place specified in the  
38 notice of hearing and in a manner consistent with due process.

39 Section 2. Subsection (1) of section 744.367, Florida  
40 Statutes, is amended to read:

41 744.367 Duty to file annual guardianship report.—



Amendment No. 1

42 (1) Unless the court requires filing on a calendar-year  
43 basis, each guardian of the person shall file with the court an  
44 annual guardianship plan within 90 days after ~~at least 60 days,~~  
45 ~~but no more than 90 days,~~ before the last day of the anniversary  
46 month that the letters of guardianship were signed, and the plan  
47 must cover the coming fiscal year, ending on the last day in  
48 such anniversary month. If the court requires calendar-year  
49 filing, the guardianship plan ~~for the forthcoming calendar year~~  
50 must be filed on or before April 1 of each year. The latest  
51 annual guardianship plan approved by the court will remain in  
52 effect until the court approves a subsequent plan ~~after~~  
53 ~~September 1 but no later than December 1 of the current year.~~

54  
55 -----  
56 **T I T L E A M E N D M E N T**

57 Between lines 22 and 23, insert:  
58 amending s. 744.367, F.S.; increasing the time that a guardian  
59 has to file a required annual guardianship plan with the court  
60 if the court does not require filing on a calendar year basis;  
61 changing the time that a guardian has to file a required annual  
62 guardianship plan with the court if the court requires calendar-  
63 year filing;  
64





Amendment No. 1a

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

*Adopted without objection*

1 Committee/Subcommittee hearing bill: Civil Justice & Claims  
2 Subcommittee

3 Representative Harrison offered the following:

4  
5 **Amendment to Amendment (572113) by Representative Diamond**

6 Remove line 12 of the amendment and insert:

7 days before the hearing on the petition, unless the reports are  
8 not complete, in which case the petitioner and attorney for the  
9 alleged incapacitated person may waive the 10 day requirement  
10 and consent to the consideration of the report by the court at  
11 the adjudicatory hearing. If such service is not

12 Remove line 33 of the amendment and insert:

13 days, which time period may be waived, but no more than 30 days,  
14 after the filing of the last

**COMMITTEE MEETING REPORT**  
**Civil Justice & Claims Subcommittee**

**2/23/2017 9:30:00AM**

**Location:** Sumner Hall (404 HOB)

**HB 469 : Prejudgment Interest**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daniel Burgess, Jr.	X				
Colleen Burton		X			
Cord Byrd	X				
John Cortes	X				
Ben Diamond	X				
Jay Fant		X			
Erin Grall	X				
Shawn Harrison	X				
George Moraitis, Jr.		X			
Sean Shaw	X				
Cynthia Stafford	X				
Jackie Toledo	X				
Barbara Watson	X				
Frank White		X			
Heather Fitzenhagen (Chair)	X				
<b>Total Yeas: 11</b>		<b>Total Nays: 4</b>			

**HB 469 Amendments**

**Amendment 133613**

*Adopted Without Objection*

**Appearances:**

Prejudgement Intrest

Gustafson, Jim (General Public) - Proponent

FJA  
 1567 Cristobal Drive  
 Tallahassee FL 32303  
 Phone: 850-224-7600

Prejudgement Intrest

Bolin, Andrew (Lobbyist) - Opponent

Florida Justice Reform Institute  
 201 One Tampa City Center Ste 2900  
 Tampa FL 33602-58  
 Phone: (813) 226-3000

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**COMMITTEE MEETING REPORT**  
**Civil Justice & Claims Subcommittee**

**2/23/2017 9:30:00AM**

**Location:** Sumner Hall (404 HOB)

**HB 469 : Prejudgment Interest (continued)**

**Appearances: (continued)**

Prejudgement Intrest

Reynolds, Liz (Lobbyist) - Waive In Opposition  
National Association of Mutual Insurance Companies  
Director of State Affairs - Southeast Region  
3933 Victoria Lakes Dr S  
Jacksonville FL 32226-07  
Phone: (317) 417-5618

Prejudgement Intrest

Bevis, Brewster (Lobbyist) - Opponent  
Associated Industries of Florida  
Senior Vice President  
PO Box 784  
Tallahassee FL 32302-07  
Phone: (850) 224-7173

Prejudgement Intrest

Padgett, Samantha (Lobbyist) - Opponent  
Florida Retail Federation  
Vice President & General Counsel  
227 South Adams St.  
Tallahassee FL 32301  
Phone: 850-222-4082

Prejudgement Intrest

Guzzo, Gary (Lobbyist) - Opponent  
U.S. Chamber Institute for Legal Reform  
108 S Monroe St  
Tallahassee FL 32301  
Phone: (850) 681-0024

Prejudgement Intrest

Mobley, Joseph (Lobbyist) - Waive In Opposition  
CSX Transportation  
200 West College Ave  
Tallahassee FL 32301  
Phone: 850-222-1959

Prejudgement Intrest

Delegal, Mark (Lobbyist) - Opponent  
Florida Chamber of Commerce  
Counsel  
Holland & Knight LLP 315 S Calhoun St Ste 600  
Tallahassee FL 32301  
Phone: (850) 224-7000

**Committee meeting was reported out: Thursday, February 23, 2017 2:23:24PM**

**COMMITTEE MEETING REPORT**  
**Civil Justice & Claims Subcommittee**

**2/23/2017 9:30:00AM**

**Location:** Sumner Hall (404 HOB)

**HB 469 : Prejudgment Interest (continued)**

**Appearances: (continued)**

Prejudgement Intrest

Bolin, Andrew (Lobbyist) - Opponent

Florida Justice Reform Institute

201 One Tampa City Center Ste 2900

Tampa FL 33602-58

Phone: (813) 226-3000

Prejudgement Intrest

Sexton, Samantha (Lobbyist) - Opponent

Personal Insurance Federation of Florida

VP of Legislative & Reg Affairs

215 South Monroe Street Suite 835

Tallahassee FL 32301

Phone: (321) 544-1577

Prejudgement Intrest

Snowden, Meredith (Lobbyist) - Waive In Opposition

Florida Property & Casualty Association, Inc

Consultant

215 South Monroe Street Suite 701

Tallahassee FL 32301

Phone: (954) 492-4010

Prejudgement Intrest

Nungesser, Tim (Lobbyist) - Opponent

National Federation of Independent Business

Legislative

110 E Jefferson St

Tallahassee FL 32301

Phone: 850-445-5367

Prejudgement Intrest

Webb, Katherine (Lobbyist) - Opponent

Florida Property & Casualty Association, Inc

215 South Monroe Street Suite 701

Tallahassee FL 32301

Phone: (954) 492-4010

Prejudgement Intrest

Wester, Gerald (Lobbyist) - Opponent

American Insurance Association

101 E College Ave Ste 502

Tallahassee FL 32301

Phone: (850) 222-9075

Prejudgement Intrest

Gustafson, Jim (General Public) - Proponent

FJA

1567 Cristobal Drive

Tallahassee FL 32303

Phone: 850-224-7600

**Committee meeting was reported out: Thursday, February 23, 2017 2:23:24PM**



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	✓	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

*Adopted Without Objection*

1 Committee/Subcommittee hearing bill: Civil Justice & Claims  
2 Subcommittee

3 Representative Harrison offered the following:

4  
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
7 Section 1. Section 55.035, Florida Statutes, is created to  
8 read:

9 55.035 Prejudgment interest.-

10 (1) In any action in which a plaintiff recovers economic or  
11 noneconomic damages, the court shall include interest on each  
12 component of damages in the final judgment.

13 (a) For economic damages, interest accrues from the date of  
14 the loss of an economic benefit to the plaintiff.

15 (b) For noneconomic damages, interest accrues from the date  
16 the defendant received notice of a claim from the plaintiff.

26 thereafter, the court shall award interest in accordance with s.  
27 55.035, Florida Statutes, as created by this act. Such interest  
28 shall not begin to accrue earlier than July 1, 2017, regardless  
29 of the date on which the injury or loss occurred or the attorney  
30 fees or costs were incurred.

31       Section 3. This act shall take effect July 1, 2017.

**COMMITTEE MEETING REPORT**  
**Civil Justice & Claims Subcommittee**

**2/23/2017 9:30:00AM**

**Location:** Sumner Hall (404 HOB)

**HB 471 : Mortgage Foreclosures**

*Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Daniel Burgess, Jr.	X				
Colleen Burton	X				
Cord Byrd	X				
John Cortes	X				
Ben Diamond	X				
Jay Fant	X				
Erin Grall	X				
Shawn Harrison	X				
George Moraitis, Jr.	X				
Sean Shaw	X				
Cynthia Stafford	X				
Jackie Toledo	X				
Barbara Watson	X				
Frank White				X	
Heather Fitzenhagen (Chair)	X				
<b>Total Yeas: 14</b>		<b>Total Nays: 0</b>			

**HB 471 Amendments**

**Amendment 785549**

*Adopted Without Objection*

**Appearances:**

Mortgage Foreclosures  
 Pratt, Kenneth (Lobbyist) - Waive In Support  
 Florida Bankers Association  
 Senior VP of Governmental Affairs  
 1001 Thomasville Rd Ste 201  
 Tallahassee FL 32303  
 Phone: (850) 224-2265

Committee meeting was reported out: Thursday, February 23, 2017 2:23:24PM



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	✓	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

*Adopted Without Objection*

1 Committee/Subcommittee hearing bill: Civil Justice & Claims  
2 Subcommittee

3 Representative Fant offered the following:

4  
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
7 Section 1. Section 702.12, Florida Statutes, is created to  
8 read:

9 702.12 Actions in foreclosure.—

10 (1) (a) A lienholder, in an action to foreclose a mortgage,  
11 may submit any document the defendant filed in the defendant's  
12 bankruptcy case under penalty of perjury for use as an admission  
13 by the defendant.

14 (b) The lienholder's submission of a document the  
15 defendant filed in the defendant's bankruptcy case that  
16 evidences intention to surrender to the lienholder the property





Amendment No. 2

17 that is the subject of the foreclosure, which document has not  
18 been withdrawn by the defendant, together with the submission of  
19 a final order entered in the bankruptcy case that discharges the  
20 defendant's debts or confirms the defendant's repayment plan  
21 which intention is contained therein, creates a rebuttable  
22 presumption that the defendant has waived any defenses to the  
23 foreclosure.

24 (2) In addition to a request set forth in s. 90.203, the  
25 lienholder may request that the court take judicial notice of  
26 any final order entered in a bankruptcy case.

27 (3) This section does not preclude the defendant in a  
28 foreclosure action from raising a defense based upon the  
29 lienholder's conduct subsequent to the filing of the document  
30 filed in the bankruptcy case that evidenced the defendant's  
31 intention to surrender the mortgaged property to the lienholder.

32 (4) This section applies to any foreclosure action filed  
33 on or after October 1, 2017.

34 Section 2. This act shall take effect October 1, 2017.

36 -----  
37 **T I T L E   A M E N D M E N T**

38 Remove everything before the enacting clause and insert:  
39 An act relating to bankruptcy matters in foreclosure  
40 proceedings; creating s. 702.12, F.S.; authorizing certain  
41 lienholders to use certain documents as an admission in an

785549 - h0471-strike 2.docx

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Amendment No. 2

42 | action to foreclose a mortgage; providing that submission of  
43 | certain documents in a foreclosure action creates certain  
44 | presumptions; authorizing a lienholder to make a request for  
45 | judicial notice; providing construction; providing an effective  
46 | date.

**COMMITTEE MEETING REPORT**  
**Civil Justice & Claims Subcommittee**

**2/23/2017 9:30:00AM**

**Location:** Sumner Hall (404 HOB)

**PCS for HB 481 : Trusts**

Favorable With Amendment(s)

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Daniel Burgess, Jr.	X				
Colleen Burton	X				
Cord Byrd	X				
John Cortes	X				
Ben Diamond	X				
Jay Fant	X				
Erin Grall	X				
Shawn Harrison	X				
George Moraitis, Jr.	X				
Sean Shaw	X				
Cynthia Stafford	X				
Jackie Toledo	X				
Barbara Watson	X				
Frank White				X	
Heather Fitzenhagen (Chair)	X				
<b>Total Yeas: 14</b>		<b>Total Nays: 0</b>			

**PCS for HB 481 Amendments**

**Amendment PCS for HB 481 a1**

Adopted Without Objection

**Appearances:**

Trusts

Pratt, Kenneth (Lobbyist) - Waive In Support  
 Florida Bankers Association  
 Senior VP of Governmental Affairs  
 1001 Thomasville Rd Ste 201  
 Tallahassee FL 32303  
 Phone: (850) 224-2265

Trusts

Roth, Cari (Lobbyist) - Waive In Support  
 Florida Bar, Real Property & Trust Law Section  
 215 S Monroe St Suite 815  
 Tallahassee FL 32301-18  
 Phone: (850) 999-4100

Committee meeting was reported out: Thursday, February 23, 2017 2:23:24PM



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<input type="checkbox"/>	(Y/N)
ADOPTED AS AMENDED	<input type="checkbox"/>	(Y/N)
ADOPTED W/O OBJECTION	<input checked="" type="checkbox"/>	(Y/N)
FAILED TO ADOPT	<input type="checkbox"/>	(Y/N)
WITHDRAWN	<input type="checkbox"/>	(Y/N)
OTHER		

*Adopted without objection*

1 Committee/Subcommittee hearing bill: Civil Justice & Claims  
2 Subcommittee

3 Representative Moraitis offered the following:

4  
5 **Amendment (with title amendment)**

6 Between lines 79 and 80, insert:

7 Section 3. Subsections (1) and (3) of section 736.0109,  
8 Florida Statutes, are amended to read:

9 736.0109 Methods and waiver of notice.—

10 (1) Notice to a person under this code or the sending of a  
 11 document to a person under this code must be accomplished in a  
 12 manner reasonably suitable under the circumstances and likely to  
 13 result in receipt of the notice or document. Permissible methods  
 14 of notice or for sending a document include first-class mail,  
 15 personal delivery, delivery to the person's last known place of  
 16 residence or place of business, ~~or~~ a properly directed facsimile



Amendment No. 1

17 or other electronic message, or posting to a secure electronic  
18 account or website in accordance with subsection (3).

19 (3) A document that is sent solely by posting to an  
20 electronic account or website is not deemed sent for purposes of  
21 this section unless the sender complies with this subsection.  
22 The sender has the burden of proving compliance with this  
23 subsection ~~In addition to the methods listed in subsection (1)~~  
24 ~~for sending a document, a sender may post a document to a secure~~  
25 ~~electronic account or website where the document can be~~  
26 ~~accessed.~~

27 (a) ~~Before a document may be posted to an electronic~~  
28 ~~account or website,~~ The recipient must sign a separate written  
29 authorization solely for the purpose of authorizing the sender  
30 to post documents on an electronic account or website before  
31 such posting. The written authorization must:

32 1. Specifically indicate whether a trust accounting, trust  
33 disclosure document, or limitation notice, as those terms are  
34 defined in s. 736.1008(4), will be posted in this manner, and  
35 generally enumerate the other types of documents that may be  
36 posted in this manner.

37 2. Contain specific instructions for accessing the  
38 electronic account or website, including the security procedures  
39 required to access the electronic account or website, such as a  
40 username and password.

41 3. Advise the recipient that a separate notice will be

PCS for HB 481 a1

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Amendment No. 1

42 sent when a document is posted to the electronic account or  
43 website and the manner in which the separate notice will be  
44 sent.

45 4. Advise the recipient that the authorization to receive  
46 documents by electronic posting may be amended or revoked at any  
47 time and include specific instructions for revoking or amending  
48 the authorization, including the address designated for the  
49 purpose of receiving notice of the revocation or amendment.

50 5. Advise the recipient that posting a document on the  
51 electronic account or website may commence a limitations period  
52 as short as 6 months even if the recipient never actually  
53 accesses the electronic account, electronic website, or the  
54 document.

55 (b) Once the recipient signs the written authorization,  
56 the sender must provide a separate notice to the recipient when  
57 a document is posted to the electronic account or website. As  
58 used in this subsection, the term "separate notice" means a  
59 notice sent to the recipient by means other than electronic  
60 posting ~~that, which~~ identifies each document posted to the  
61 electronic account or website and provides instructions for  
62 accessing the ~~posted~~ document. The separate notice requirement  
63 is deemed satisfied if the recipient accesses the document on  
64 the electronic account or website.

65 (c) A document sent by electronic posting is deemed  
66 received by the recipient on the earlier of the date on which

PCS for HB 481 a1

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Amendment No. 1

67 ~~that~~ the separate notice is received or the date on which ~~that~~  
68 the recipient accesses the document on the electronic account or  
69 website.

70 (d) At least annually after a recipient signs a written  
71 authorization, a sender shall send a notice advising recipients  
72 who have authorized one or more documents to be posted to an  
73 electronic account or website that such posting may commence a  
74 limitations period as short as 6 months even if the recipient  
75 never accesses the electronic account or website or the document  
76 and that authority to receive documents by electronic posting  
77 may be amended or revoked at any time. This notice must be given  
78 by means other than electronic posting and may not be  
79 accompanied by any other written communication. Failure to  
80 provide such notice within 380 days after the last notice is  
81 deemed to automatically revoke the authorization to receive  
82 documents in the manner permitted under this subsection 380 days  
83 after the last notice is sent.

84 (e) The notice required in paragraph (d) may be in  
85 substantially the following form: "You have authorized the  
86 receipt of documents through posting to an electronic account or  
87 website on which ~~where~~ the documents can be accessed. This  
88 notice is being sent to advise you that a limitations period,  
89 which may be as short as 6 months, may be running as to matters  
90 disclosed in a trust accounting or other written report of a  
91 trustee posted to the electronic account or website even if you

PCS for HB 481 a1

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Amendment No. 1

92 never actually access the electronic account or website or the  
93 documents. You may amend or revoke the authorization to receive  
94 documents by electronic posting at any time. If you have any  
95 questions, please consult your attorney."

96 (f) A sender may rely on the recipient's authorization  
97 until the recipient amends or revokes the authorization by  
98 sending a notice to the address designated for that purpose in  
99 the authorization or in the manner specified on the electronic  
100 account or website. The recipient, at any time, may amend or  
101 revoke an authorization to have documents posted on the  
102 electronic account or website.

103 (g) If a document is provided to a recipient solely  
104 through electronic posting and is deemed sent for purposes of  
105 this section:

106 1. The recipient must be able to access and print or  
107 download the document until the earlier of:

108 a. The date on which the recipient's access to the  
109 electronic account or website is terminated for any reason; or

110 b. Four ~~must remain accessible to the recipient on the~~  
111 ~~electronic account or website for at least 4 years after the~~  
112 date on which ~~that~~ the document is deemed received by the  
113 recipient.

114 2. If the recipient's access to the electronic account or  
115 website is terminated for any reason, such termination does not  
116 invalidate the notice or sending of any document previously

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117 posted on the electronic account or website in accordance with  
118 this subsection ~~The electronic account or website must allow the~~  
119 ~~recipient to download or print the document. This subsection~~  
120 ~~does not affect or alter the duties of a trustee to keep clear,~~  
121 ~~distinct, and accurate records pursuant to s. 736.0810 or affect~~  
122 ~~or alter the time periods for which the trustee must maintain~~  
123 ~~those records.~~

124 3. If the recipient's access to the electronic account or  
125 website is terminated by the sender before the time period set  
126 forth in sub-subparagraph 1.b., any applicable limitations  
127 period set forth in s. 736.1008(1) or (2) that is still open is  
128 tolled for any information adequately disclosed in such document  
129 as follows:

130 a. From the date on which the recipient's access to the  
131 electronic account or website is terminated by the sender until  
132 45 days after the date on which the sender provides notification  
133 of such termination to the recipient by means other than  
134 electronic posting, and:

135 (I) The recipient requests that any documents sent during  
136 the prior 4 years solely through electronic posting be provided  
137 to him or her by other means at no cost; or

138 (II) The recipient's access to the electronic account or  
139 website is restored; or

140 b. From the date on which any request is made pursuant to  
141 sub-sub-subparagraph 3.a.(I) until 20 days after the date on

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142 which the requested documents are provided to the recipient by  
143 means other than electronic posting.

144 (h) For purposes of this subsection, access to an  
145 electronic account or website is terminated by the sender when  
146 the sender unilaterally terminates the recipient's ability to  
147 access the electronic website or account or download or print  
148 any document posted on such website or account. Access is not  
149 terminated by the sender when access is terminated by an action  
150 of the recipient or by an action of the sender in response to  
151 the recipient's request to terminate access. The recipient's  
152 revocation of authorization pursuant to paragraph (f) is not  
153 considered a request to terminate access ~~To be effective, the~~  
154 ~~posting of a document to an electronic account or website must~~  
155 ~~be done in accordance with this subsection. The sender has the~~  
156 ~~burden of establishing compliance with this subsection.~~

157 (i) This subsection does not affect or alter the duties of  
158 a trustee to keep clear, distinct, and accurate records pursuant  
159 to s. 736.0810 or affect or alter the time periods for which the  
160 trustee must maintain such records ~~preclude the sending of a~~  
161 ~~document by other means.~~

162 (j) This subsection governs the posting of a document  
163 solely for the purpose of giving notice under this code or the  
164 sending of a document to a person under this code and does not  
165 prohibit or otherwise apply to the posting of a document to an  
166 electronic account or website for any other purpose or preclude



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167 the sending of a document by any other means.

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169



170

**T I T L E   A M E N D M E N T**

171

Remove line 6 and insert:

172

beneficiaries; amending s. 736.0109, F.S.; revising provisions

173

relating to notice or sending of electronic trust documents;

174

providing requirements for such documents to be deemed sent;

175

requiring a certain authorization to specify documents subject

176

to electronic posting; revising requirements for a recipient to

177

electronically access such documents; prohibiting the

178

termination of a recipient's electronic access to such documents

179

from invalidating certain notice or sending; tolling specified

180

limitations periods under certain circumstances; providing

181

requirements for electronic access to such documents to be

182

deemed terminated by a sender; providing applicability; amending

183

s. 736.0110, F.S.; providing