

Trustee Discharge

Quick-Take: Florida just streamlined its trust laws to permit a summary, nonjudicial process, to settle a trustee's account and obtain a discharge from liability.

Background: Normally a trustee that wants a discharge needs to obtain a waiver and release from trust beneficiaries or it needs to petition the probate court to approve the trustee's final account and order its discharge. [MCL 700.7909; MCL 700.7821; 700.7705.] However, these options take time and expense, and they bring with them some practical drawbacks. Florida recently changed its laws to permit a summary procedure to settle the trustee's accounts and enable the discharge of the trustee from liability without any court proceedings.

Florida Law: On April 29, 2026, Florida adopted an amendment to its trust code to permit nonjudicial summary proceedings with regard to the discharge of a trustee. [Florida statute 736.10081.]

Trusts Covered: A trustee of an irrevocable trust, or a trust that becomes irrevocable on or after the effective date of this new law, which is in 'substantial compliance' the duty to inform, and account can initiate this new procedure and avail themselves of this new procedure. This procedure can be initiated at least six months after the trustee's acceptance, or when the trust terminates, or the trustee resigns or is removed.

Disclosure Notice: The trustee must send a trust disclosure document to the qualified trust beneficiaries along with any co-trustee, and to the immediate prior successor trustee (if any, if the trust is not to be terminated).

Disclosure Document: The disclosure document may also be sent to any other person who the trustee reasonably believes would be affected by this procedure. Included in the disclosure document are: (i) the trustee's name, address, phone number, and email address; (ii) a plan of distribution, including a schedule of assets to be distributed, debts, expenses, taxes to be paid and any set-aside reserve; (iii) a trust accounting for any prior period that was not previously accounted for (unless that duty to account has been

waived;) and (iv) a formal notice to warns that claims may be barred unless a written objection is received by the trustee within sixty days.

Objections: An objection provided to the trustee does not have to state any grounds, nor does it have to be in any particular format. If the trustee receives such a written objection within the sixty day period, this summary procedure will not apply. Consequently, it will not take much for a beneficiary to stop this procedure, other than file an objection that says ‘no.’ Thereafter, the trustee will have to fall back on existing discharge procedures that are available under the existing Florida laws. In short, this new procedure supplements, but it does not replace, existing trustee rights under Florida statutes to settle accounts.

Trustee’s Discharge: If no timely objection is received by the trustee under this new procedure, the trustee will be discharged upon completing all distributions in accordance with its distribution plan. Moreover, the trustee will be released from all liability and claims that arise from any matter that was adequately disclosed “with the same effect as if the court had entered a final order approving that act or omission.”

In sum, this statute provides a cost-effective, relatively easy, process for the trustee to obtain a legally binding discharge that carries the same legal effect as a court order.

Conclusion: Because all that is required to stop the use of this new procedure is a written objection filed with the trustee, the practical use of this statute will more likely occur in non-adversarial trust administrations where the trust beneficiaries simply do not respond when they alerted to the need to file an objection. That said, it is a relatively simple process triggered with a notice from the trustee that can save both time and money and provide to the trustee the discharge from liability that it wants (or needs.)

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