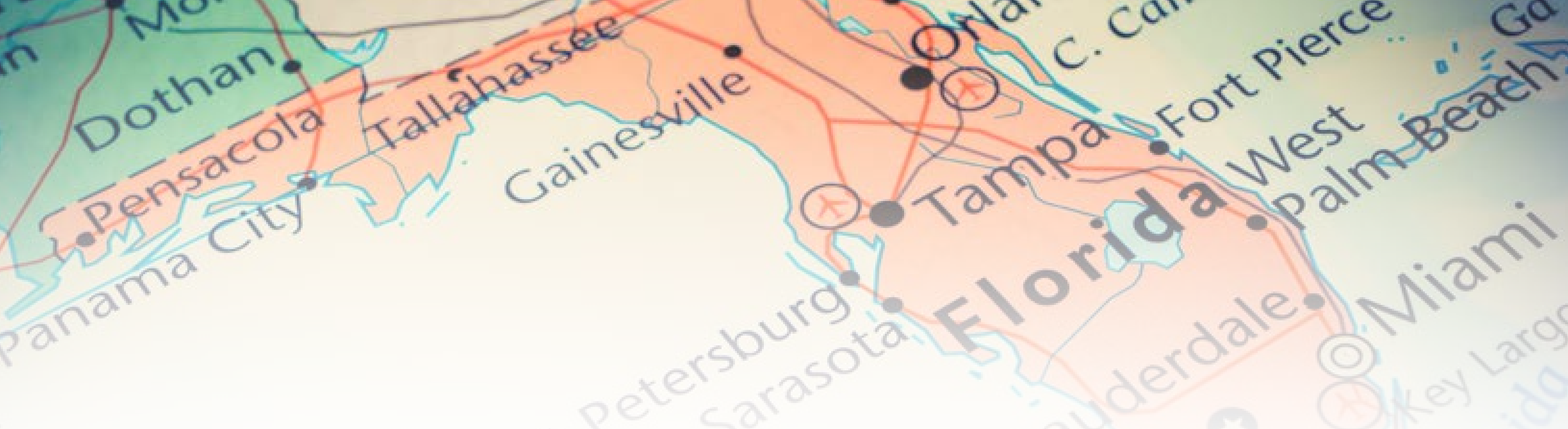


# Navigating Florida's New Trust, Probate and Series LLC Statutes

By Brett Rosecan

*This update summarizes recent statutory developments in Florida affecting trust administration, probate administration, and entity structuring.*

## Florida Introduces Nonjudicial Procedure for Trustee Discharge

Effective April 29, 2026, Florida enacted § 736.10081 of the Florida Statutes, creating a nonjudicial procedure intended to reduce the cost and delay associated with obtaining trustee discharge in nonadversarial trust administrations.

The statute applies to trusts that are irrevocable, or that become irrevocable, on or after April 29, 2026.

Under prior law, a trustee seeking discharge generally had two options. The trustee could obtain releases from all qualified beneficiaries, typically in connection with a waiver of a final accounting, or pursue judicial approval through a formal accounting proceeding. This framework often resulted in delay or unnecessary litigation in the absence of a substantive dispute, particularly where unanimous beneficiary consent could not be obtained.

Fla. Stat. § 736.10081 introduces a procedure under which a trustee may provide a trust disclosure document to qualified beneficiaries in connection with termination of the trust or final distribution and obtain discharge if no written objection is made within a specified period.

If no qualified beneficiary submits a written objection within 60 days after receipt of the disclosure, and the trustee completes the proposed distribution, the trustee is discharged with the same effect as a court order approving the administration. Any timely written objection precludes use of the procedure, regardless of whether the objection states a substantive basis.

The statute supplements, rather than replaces, existing methods of obtaining trustee discharge, including beneficiary releases, nonjudicial settlement agreements, and judicial accountings.

The statute does not eliminate disclosure obligations. Instead, it permits a trustee to obtain a discharge with substantially the same effect as a court order without affirmative beneficiary consent or a judicial proceeding. The trustee's underlying duty to inform and account under Fla. Stat. § 736.0813 remains unchanged. The procedure is likely to have its greatest utility in nonadversarial trust administrations where beneficiaries do not object to the trustee's proposed actions.

### Florida Practice Point

Florida has modified the discharge process without eliminating the trustee's underlying disclosure obligations. Non-Florida practitioners should not assume that Florida has eliminated trustee accounting obligations. Rather, the statute creates a discharge mechanism under which silence following adequate disclosure may operate to bar claims. Careful attention should be given to disclosure requirements and objection deadlines, particularly where beneficiaries are passive or geographically dispersed.

## Florida Expands Availability of Simplified Probate Procedures

Effective July 1, 2026, Florida expanded the availability of simplified probate procedures by enacting legislation implementing recommendations of the Florida Supreme Court's Workgroup on Uncontested Probate Proceedings.

The legislation both broadens access to simplified procedures and strengthens the authority of personal representatives.

Key statutory changes include:

- Increasing the threshold for summary administration from $75,000 to $150,000 (Fla. Stat. § 735.201).

- Increasing the threshold for disposition of certain intestate personal property without administration from $10,000 to $20,000 (Fla. Stat. § 735.304).
- Increasing the amount of funds that may be collected from financial institutions by affidavit from $1,000 to $2,000 (Fla. Stat. § 735.303).
- Increasing the maximum federal income tax refund collectible without administration from $2,500 to $5,000 (Fla. Stat. § 735.302).
- Requiring financial institutions to grant personal representatives access to safe deposit boxes, and to deliver property held for safekeeping, upon presentation of certified letters of authority (Fla. Stat. § 655.936).
- Confirming the authority of personal representatives to act under the Florida Probate Code and creating a fee-shifting regime under which courts must award taxable costs, including attorney's fees, in proceedings to enforce that authority (Fla. Stat. §§ 733.612 and 733.6125).

These changes expand access to simplified probate procedures and provide additional flexibility in the administration of uncontested estates.

More broadly, the legislation reflects a policy shift toward facilitating efficient estate administration, reducing the need for court involvement in routine matters, and reinforcing the authority of fiduciaries to act without unnecessary judicial intervention.

These changes may also influence planning decisions involving Florida real property or other Florida situs assets held outside of trust, particularly in cross-jurisdictional estates.

### Florida Practice Point

Florida's expanded summary administration thresholds may allow for simplified administration in circumstances that would require formal probate elsewhere. Non-Florida practitioners should note that Florida's simplified probate procedures are strictly statutory, and eligibility requirements and procedural compliance should be carefully evaluated before reliance.

## Florida Adopts Protected Series LLC Legislation

Effective July 1, 2026, Florida permits the formation of protected series limited liability companies through the enactment of Fla. Stat. §§ 605.2101 through 605.2802, known as the Uniform Protected Series Provisions.

A protected series limited liability company (LLC) is a single limited liability company authorized to establish multiple protected series, each capable of holding assets and liabilities distinct from the parent company and from other protected series. Florida joins other jurisdictions that authorize protected series structures.

The legislation is intended to allow liabilities associated with one protected series to remain isolated from the assets of other protected series and from the parent company itself. As a result, a single entity may hold multiple assets or business operations while maintaining separate liability compartments within a unified structure.

The effectiveness of this liability separation depends on compliance with specific recordkeeping requirements. Assets and liabilities must be clearly associated with the applicable protected series, and failure to maintain the required records may undermine the intended liability protections.

Florida's legislation also includes certain nonuniform provisions addressing real property ownership and recording matters, reflecting the significance of real estate holdings in Florida planning structures.

For trust and estate planning purposes, the legislation presents a new structural option for holding multiple assets within a single entity while maintaining separate liability compartments among those assets. The structure may be particularly relevant for Florida real property holdings, where liability compartmentalization is often desirable.

The utility of protected series structures may be limited where assets or enforcement proceedings are located outside Florida. Jurisdictions outside Florida may not recognize the liability separations created under the statute, and courts may scrutinize such structures in creditor or insolvency proceedings, particularly where formalities are not consistently observed. Accordingly, these structures are likely to be most effective where the underlying assets and enforcement framework are closely aligned with Florida law.

### Florida Practice Point

Florida recognition of protected series structures does not ensure recognition by other jurisdictions. Non-Florida practitioners should exercise caution when incorporating Florida protected series LLCs into broader planning structures. Where assets are located outside Florida, or where multi-jurisdictional enforcement is anticipated, the use of separate legal entities may remain the more reliable approach.

**Brett Rosecan** is an attorney at Withers LLP. He advises individuals, families, and fiduciaries on trust, estate, and tax matters. Brett is admitted to practice in New York, Florida, California, the District of Columbia, Connecticut, and Nevada.