

CHAPTER 2015-140

House Bill No. 283

An act relating to transfers to minors; amending s. 710.102, F.S.; defining the term “general power of appointment”; amending s. 710.105, F.S.; specifying that certain transfers from a trust are considered as having been made directly by the grantor of the trust; amending s. 710.123, F.S.; authorizing custodianships established by irrevocable gift and by irrevocable exercise of power of appointment to terminate when a minor attains the age of 25, subject to the minor’s right in such custodianships to compel distribution of the property upon attaining the age of 21; limiting liability of financial institutions for certain distributions of custodial property; providing an effective date.

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

Section 1. Subsections (9) through (18) of section 710.102, Florida Statutes, are renumbered as subsections (10) through (19), respectively, and a new subsection (9) is added to that section to read:

710.102 Definitions.—As used in this act, the term:

(9) “General power of appointment” means a power of appointment as defined in s. 732.2025(3).

Section 2. Section 710.105, Florida Statutes, is amended to read:

710.105 Transfer by gift or exercise of power of appointment.—A person may make a transfer by irrevocable gift to, or the irrevocable exercise of a power of appointment in favor of, a custodian for the benefit of a minor pursuant to s. 710.111. Notwithstanding s. 710.106, a transfer by irrevocable gift from a trust over which the grantor has at the time of transfer a right of revocation, as defined in s. 733.707(3)(e), shall be treated for all purposes under this act as a transfer made directly by the grantor of the trust.

Section 3. Section 710.123, Florida Statutes, is amended to read:

710.123 Termination of custodianship.—

(1) The custodian shall transfer in an appropriate manner the custodial property to the minor or to the minor’s estate upon the earlier of:

(a)(1) The minor’s attainment of 21 years of age with respect to custodial property transferred under s. 710.105 or s. 710.106. However, a transferor can, with respect to such custodial property, create the custodianship so that it terminates when the minor attains 25 years of age;

(b)(2) The minor’s attainment of age 18 years of age with respect to custodial property transferred under s. 710.107 or s. 710.108; or

~~(c)(3)~~ The minor's death.

(2) If the transferor of a custodianship under paragraph (1)(a) creates the custodianship to terminate when the minor attains 25 years of age, in the case of a custodianship created by irrevocable gift or by irrevocable inter vivos exercise of a general power of appointment, the minor nevertheless has the absolute right to compel immediate distribution of the entire custodial property when the minor attains 21 years of age.

(3) As to a custodianship described in subsection (2), a transferor may provide, by delivery of a written instrument to the custodian upon the creation of such custodianship, that the minor's right to compel immediate distribution of the entire custodial property will terminate upon the expiration of a fixed period that begins with the custodian's delivery of a written notice to the minor of the existence of such right. To be effective to terminate the minor's right to compel an immediate distribution of the entire custodial property when the minor attains 21 years of age, the custodian's written notice must be delivered at least 30 days before, and not later than 30 days after, the date upon which the minor attains 21 years of age, and the fixed period specified in the notice for the termination of such right cannot expire before the later of 30 days after the minor attains 21 years of age or 30 days after the custodian delivers such notice.

(4) Notwithstanding the definition of the term "minor" as provided in s. 710.102, if the transferor creates the custodianship to terminate when the minor attains 25 years of age, solely for purposes of the application of the termination provisions of this section, the term "minor" means an individual who has not attained 25 years of age.

(5) A financial institution has no liability to a custodian or minor for distribution of custodial property to, or for the benefit of, the minor in a custodianship created by irrevocable gift or by irrevocable exercise of a general power of appointment when the minor attains 21 years of age.

Section 4. This act shall take effect July 1, 2015.

Approved by the Governor June 11, 2015.

Filed in Office Secretary of State June 11, 2015.