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The 2020 Florida Statutes

[Title XLII](#)

ESTATES AND TRUSTS

[Chapter 731](#)

PROBATE CODE: GENERAL PROVISIONS

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731.201 General definitions.—Subject to additional definitions in subsequent chapters that are applicable to specific chapters or parts, and unless the context otherwise requires, in this code, in s. [409.9101](#), and in chapters 736, 738, 739, and 744, the term:

(1) “Authenticated,” when referring to copies of documents or judicial proceedings required to be filed with the court under this code, means a certified copy or a copy authenticated according to the Federal Rules of Civil Procedure.

(2) “Beneficiary” means heir at law in an intestate estate and devisee in a testate estate. The term “beneficiary” does not apply to an heir at law or a devisee after that person’s interest in the estate has been satisfied. In the case of a devise to an existing trust or trustee, or to a trust or trustee described by will, the trustee is a beneficiary of the estate. Except as otherwise provided in this subsection, the beneficiary of the trust is not a beneficiary of the estate of which that trust or the trustee of that trust is a beneficiary. However, if each trustee is also a personal representative of the estate, each qualified beneficiary of the trust as defined in s. [736.0103](#) shall be regarded as a beneficiary of the estate.

(3) “Child” includes a person entitled to take as a child under this code by intestate succession from the parent whose relationship is involved, and excludes any person who is only a stepchild, a foster child, a grandchild, or a more remote descendant.

(4) “Claim” means a liability of the decedent, whether arising in contract, tort, or otherwise, and funeral expense. The term does not include an expense of administration or estate, inheritance, succession, or other death taxes.

(5) “Clerk” means the clerk or deputy clerk of the court.

(6) “Collateral heir” means an heir who is related to the decedent through a common ancestor but who is not an ancestor or descendant of the decedent.

(7) “Court” means the circuit court.

(8) “Curator” means a person appointed by the court to take charge of the estate of a decedent until letters are issued.

(9) “Descendant” means a person in any generational level down the applicable individual’s descending line and includes children, grandchildren, and more remote descendants. The term “descendant” is synonymous with the terms “lineal descendant” and “issue” but excludes collateral heirs.

(10) “Devise,” when used as a noun, means a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by will or trust. The term includes “gift,” “give,” “bequeath,” “bequest,” and “legacy.” A devise is subject to charges for debts, expenses, and taxes as provided in this code, the will, or the trust.

(11) “Devisee” means a person designated in a will or trust to receive a devise. Except as otherwise provided in this subsection, in the case of a devise to an existing trust or trustee, or to a trust or trustee of a trust described by will, the trust or trustee, rather than the beneficiaries of the trust, is the devisee. However, if each trustee is also a personal representative of the estate, each qualified beneficiary of the trust as defined in s. [736.0103](#) shall be regarded as a devisee.

(12) “Distributee” means a person who has received estate property from a personal representative or other fiduciary other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increments to them remaining in the trustee’s hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee. For purposes of this provision, “testamentary trustee” includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

(13) “Domicile” means a person’s usual place of dwelling and shall be synonymous with residence.

(14) “Estate” means the property of a decedent that is the subject of administration.

(15) “Exempt property” means the property of a decedent’s estate which is described in s. [732.402](#).

(16) “File” means to file with the court or clerk.

(17) “Foreign personal representative” means a personal representative of another state or a foreign country.

(18) “Formal notice” means a form of notice that is described in and served by a method of service provided under rule 5.040(a) of the Florida Probate Rules.

(19) “Grantor” means one who creates or adds to a trust and includes “settlor” or “trustor” and a testator who creates or adds to a trust.

(20) “Heirs” or “heirs at law” means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(21) “Incapacitated” means a judicial determination that a person lacks the capacity to manage at least some of the person’s property or to meet at least some of the person’s essential health and safety requirements. A minor shall be treated as being incapacitated.

(22) “Informal notice” or “notice” means a method of service for pleadings or papers as provided under rule 5.040(b) of the Florida Probate Rules.

(23) “Interested person” means any person who may reasonably be expected to be affected by the outcome of the particular proceeding involved. In any proceeding affecting the estate or the rights of a beneficiary in the estate, the personal representative of the estate shall be deemed to be an interested person. In any proceeding affecting the expenses of the administration and obligations of a decedent’s estate, or any claims described in s. [733.702](#)(1), the trustee of a trust described in s. [733.707](#)(3) is an interested person in the administration of the grantor’s estate. The term does not include a beneficiary who has received complete distribution. The meaning, as it relates to particular persons, may vary from time to time and must be determined according to the particular purpose of, and matter involved in, any proceedings.

(24) “Letters” means authority granted by the court to the personal representative to act on behalf of the estate of the decedent and refers to what has been known as letters testamentary and letters of administration. All letters shall be designated “letters of administration.”

(25) “Minor” means a person under 18 years of age whose disabilities have not been removed by marriage or otherwise.

(26) “Other state” means any state of the United States other than Florida and includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(27) “Parent” excludes any person who is only a stepparent, foster parent, or grandparent.

(28) “Personal representative” means the fiduciary appointed by the court to administer the estate and refers to what has been known as an administrator, administrator cum testamento annexo, administrator de bonis non, ancillary administrator, ancillary executor, or executor.

(29) “Petition” means a written request to the court for an order.

(30) “Power of appointment” means an authority, other than as an incident of the beneficial ownership of property, to designate recipients of beneficial interests in property.

(31) “Probate of will” means all steps necessary to establish the validity of a will and to admit a will to probate.

(32) “Property” means both real and personal property or any interest in it and anything that may be the subject of ownership, including causes of action of the estate and causes of action the decedent had at the time of

death.

(33) “Protected homestead” means the property described in s. 4(a)(1), Art. X of the State Constitution on which at the death of the owner the exemption inures to the owner’s surviving spouse or heirs under s. 4(b), Art. X of the State Constitution. For purposes of the code, real property owned in tenancy by the entirety or in joint tenancy with rights of survivorship is not protected homestead.

(34) “Residence” means a person’s place of dwelling.

(35) “Residuary devise” means a devise of the assets of the estate which remain after the provision for any devise which is to be satisfied by reference to a specific property or type of property, fund, sum, or statutory amount. If the will contains no devise which is to be satisfied by reference to a specific property or type of property, fund, sum, or statutory amount, “residuary devise” or “residue” means a devise of all assets remaining after satisfying the obligations of the estate.

(36) “Security” means a security as defined in s. [517.021](#).

(37) “Security interest” means a security interest as defined in s. [671.201](#).

(38) “Trust” means an express trust, private or charitable, with additions to it, wherever and however created. It also includes a trust created or determined by a judgment or decree under which the trust is to be administered in the manner of an express trust. “Trust” excludes other constructive trusts, and it excludes resulting trusts; conservatorships; custodial arrangements pursuant to the Florida Uniform Transfers to Minors Act; business trusts providing for certificates to be issued to beneficiaries; common trust funds; land trusts under s. [689.071](#), except to the extent provided in s. [689.071\(7\)](#); trusts created by the form of the account or by the deposit agreement at a financial institution; voting trusts; security arrangements; liquidation trusts; trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind; and any arrangement under which a person is nominee or escrowee for another.

(39) “Trustee” includes an original, additional, surviving, or successor trustee, whether or not appointed or confirmed by court.

(40) “Will” means a testamentary instrument, including a codicil, executed by a person in the manner prescribed by this code, which disposes of the person’s property on or after his or her death and includes an instrument which merely appoints a personal representative or guardian or revokes or revises another will. The term includes an electronic will as defined in s. [732.521](#).

History.—s. 1, ch. 74-106; s. 4, ch. 75-220; s. 1, ch. 77-174; s. 2, ch. 85-79; s. 66, ch. 87-226; s. 1, ch. 88-340; s. 7, ch. 93-257; s. 6, ch. 95-401; s. 949, ch. 97-102; s. 52, ch. 98-421; s. 11, ch. 2001-226; s. 106, ch. 2002-1; s. 2, ch. 2003-154; s. 2, ch. 2005-108; s. 29, ch. 2006-217; s. 3, ch. 2007-74; s. 8, ch. 2007-153; s. 1, ch. 2009-115; s. 4, ch. 2010-132; s. 1, ch. 2012-109; s. 16, ch. 2013-172; s. 30, ch. 2019-71; s. 2, ch. 2020-67.

Note.—Created from former s. 731.03.