

1 A bill to be entitled
2 An act relating to probate, creating s. 732.615, creating a statutory right to reform the
3 terms of a will to correct mistakes, creating 732.616, creating a statutory right to modify
4 the terms of will to achieve tax objectives, creating 733.1061, creating a fee shifting
5 statutory right which allows the court to award fees and costs in reformation and
6 modification proceedings either against a party's share in the estate or in the form of a
7 personal judgment against a party individually, and providing an effective date.
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9 Be It Enacted by the Legislature of the State of Florida:

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11 Section 1. Section 732.615, Florida Statutes, is created to read:

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13 732.615 Reformation to Correct Mistakes.--

14 Upon application of any interested person, the court may reform the terms of a will, even
15 if unambiguous, to conform the terms to the testator's intent if it is proved by clear and
16 convincing evidence that both the accomplishment of the testator's intent and the terms of the
17 will were affected by a mistake of fact or law, whether in expression or inducement. In
18 determining the testator's original intent, the court may consider evidence relevant to the
19 testator's intent even though the evidence contradicts an apparent plain meaning of the will.
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21 Section 2. Section 732.616, Florida Statutes, is created to read:

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23 732.616 Modification to Achieve Testator's Tax Objectives.--

24 Upon application of any interested person, to achieve the testator's tax objectives the
25 court may modify the terms of a will in a manner that is not contrary to the testator's probable
26 intent. The court may provide that the modification has retroactive effect.
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28 Section 3. Section 733.1061, Florida Statutes, is created to read:

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30 733.1061 Attorneys' fees and costs; will reformation and modification.

31 (1) In proceedings arising under ss. 732.615 and 732.616, the court shall award
32 taxable costs as in chancery actions, including attorney's fees and guardian ad litem fees.

33 (2) When awarding taxable costs, including attorney's fees and guardian ad litem
34 fees, under this section, the court in its discretion may direct payment from a party's interest, if
35 any, in the estate or enter a judgment which may be satisfied from other property of the party, or
36 both.
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38 Section 4. This act shall take effect on July 1, 2011.