Addendum Module — Florida (FL)

Brand: AnchorPointTrusts

Product Tier: $2,500 document-preparation package

Classification: DRAFT — Layer 2, for Layer 3 attorney-council review

Anchor State: Florida (Track A anchor)

Governing anchor: Florida Trust Code (F.S. Chapter 736)

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1. Execution Requirements

Under Florida law, a trust is created by:

(a) The settlor signing a written declaration of trust; or

(b) The settlor transferring property to a trustee under a written instrument signed by the settlor, or by the settlor's agent acting in the settlor's presence and by the settlor's direction.

Florida Statute § 736.0201: A trust is created by a written instrument signed by the settlor or by the settlor's execution of a declaration of trust.

Execution formalities:

- The trust instrument must be in writing.
- The settlor must sign the instrument, or the settlor's agent must sign in the settlor's presence and by the settlor's direction.
- No notary or witness is strictly required for trust creation under Florida law. However, notarization of the trust instrument is standard practice and strongly recommended to facilitate real-property transfers and third-party acceptance.
- A trust created by oral agreement is valid only in limited circumstances (e.g., a trust arising by operation of law); the kit assumes written instruments only.

Citation: Florida Statute § 736.0201 (Creation of trust); § 736.0202 (Execution requirements).

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UPL Note — Florida Homestead Neutral Rewrite: Florida homestead law is complex and fact-intensive.
The homestead exemption under Florida Constitution Article X, Section 4 and Florida Statute § 732.401
et seq. protects the settlor's primary residence from forced sale by certain creditors. Transferring
a homestead into a revocable living trust does not void the homestead exemption; the exemption
follows the settlor, not the trust. For irrevocable trusts, the homestead exemption may be affected
depending on the settlor's retained interests and the specific facts. Attorney review is required for
any trust that holds a Florida homestead. This is a neutral factual statement of Florida law and does
not constitute tax or estate planning advice. [ATTORNEY-CONFIRM: Verify homestead impact for
irrevocable trust configurations in FL.]
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2. Notarization and Witness Requirements

Notarization:

- Florida law does not require notarization for the creation of a trust (§ 736.0201). However, the trustee may furnish a Certification of Trust under Fla. Stat. § 736.1017.

- For real-property transfers into the trust, the deed must be acknowledged before a notary public (Florida Statute § 695.01).
- Recommendation: All trust instruments in the kit should be notarized to ensure enforceability and facilitate recording.

Witnesses:

- Florida law does not require witnesses for trust creation.
- The Certification of Trust (§ 736.1017) does not require witness signatures.

Citation: Florida Statute § 736.0201; § 736.1017; § 695.01 (Deed acknowledgment).

2a. Companion Instrument Execution Requirements

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The kit ships five documents beyond the trust instrument: the Certification of Trust, the Assignment
of Personal Property, the Pour-Over Will, the Incapacity Document Set (DPOA, healthcare directive,
HIPAA authorization), and the Funding Guide. This section records the per-state execution formalities
for those companion instruments. Every bracketed answer is a [CITATION-NEEDED] placeholder — counsel
confirms per state before assembly.
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Pour-Over Will (execution):

- Will execution form: [SELECT: attested will / attested will with notarized self-proving attachment / other per statute]
- Witness count required: [FILL IN]
- Must witnesses be disinterested (not beneficiaries)? [Y/N/unclear]
- Notary on the will face permitted/expected? [Y/N]
- Self-proving affidavit: statutory wording available? [FILL IN statute or NONE]
- Holographic wills recognized (conflict risk for handwritten changes)? [Y/N]

Durable Power of Attorney (execution):

- Notarization required: [REQUIRED / RECOMMENDED / OPTIONAL]
- Witnesses required: [FILL IN count or NONE]
- Agent acceptance signature required by statute: [Y/N]
- Statutory POA form or mandatory wording: [FILL IN or NONE]

Healthcare Directive / Advance Directive (execution):

- State instrument name: [FILL IN statutory name]
- Witness count: [FILL IN] (many states require two, with restrictions)
- Notarization: [REQUIRED / RECOMMENDED / OPTIONAL]
- Statutory form mandatory or default? [MANDATORY / DEFAULT]

HIPAA Authorization (execution):

- Witnesses required: [Y/N]
- Notarization required: [Y/N]

Certification of Trust (recording/counter use):

- Any state-specific certificate statute beyond the kit's default wording: [FILL IN statute or NONE]

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Citation: [CITATION-NEEDED: confirm each bracketed answer against the state's current statutes —
probate code (will), powers-of-attorney act (DPOA), advance-directive act (directive), and any
HIPAA-specific state requirements — before assembly. Cite only statutes verified in the research
memos.]
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3. Recording Location

Real property:

- Deeds transferring real property into or out of the trust must be recorded in the county recorder's office where the property is located.
- The trust instrument itself is not required to be recorded, but a copy may be recorded with the county recorder or the Florida county clerk of courts if the trust holds title to real property in Florida.

Personal property:

- No recording requirement for personal property held in trust.

Certificate of Trust:

- The Certification of Trust (§ 736.1017) may be recorded with the county recorder where real property is held by the trust.

Citation: Florida Statute § 736.1017; Florida county recorder practices.

4. Community Property / Homestead Overlay

Community property:

- Florida is NOT a community property state. Property acquired during marriage by either spouse is separate property unless it is gifted or bequeathed to the other spouse or acquired with community funds.
- The trust does not create community property. Trust property is the separate property of the settlor (or the settlor's spouse, if funded with separate property of the spouse) and is not subject to the community property regime.

Homestead:

- Florida recognizes a homestead exemption under Florida Constitution Article X, Section 4 and Florida Statute § 732.401 et seq. The homestead exemption protects the settlor's primary residence from forced sale by creditors (subject to statutory limits).
- Transferring a homestead into a revocable living trust does not void the homestead exemption. The homestead exemption follows the settlor, not the trust.
- For irrevocable trusts, the homestead exemption may be affected depending on the settlor's retained interests and the specific facts. [ATTORNEY-CONFIRM: Verify homestead impact for irrevocable trust configurations.]
- Important: Florida homestead law is complex and fact-intensive. The homestead exemption is not automatically preserved when property is transferred to an irrevocable trust. Attorney review is required.

Citation: Florida Constitution Article X, Section 4; Florida Statute § 732.401 (Homestead exemption); § 736.0201 (Creation of trust).

5. Track A 10-Item Shipping Checklist

#	Item	Y/N	Citation
1	Trust instrument is in writing and signed by the settlor	Y	FL § 736.0201
2	Settlor's identity is clearly stated in the instrument	Y	FL § 736.1017(1)(b)
3	Trustee's identity and powers are stated in the instrument	Y	FL § 736.1017(1)(d)
4	Revocability status is stated in the instrument	Y	FL § 736.1017(1)(f)
5	Certification of Trust can be furnished by the trustee	Y	FL § 736.1017
6	Co-trustee authority is addressed (if applicable)	Y	FL § 736.1017(1)(g)
7	Form of title to trust property is addressed	Y	FL § 736.1017(1)(h)
8	Trust identification number (EIN/TIN) is addressed	Y	EIN assigned at funding — not a § 736.1017 content item (FL cert statute has no TIN item)
9	Notarization of trust instrument is recommended	Y	FL § 695.01 (deed acknowledgment); standard practice
10	Recording location for real property is identified	Y	County recorder in the county where property is located

WHAT YOU MUST DO

1. Sign the trust in front of a notary. [RECOMMENDED — some offices will not accept an unsigned-before-notary trust.]
2. If you put your home or land into the trust: sign the new deed in front of a notary. [REQUIRED]
3. Take the signed deed to the county recorder's office where the property is located and record it. [REQUIRED]
4. You do not record the trust itself. Keep it with your important papers. [—]
5. Keep the Certification of Trust with the trust. You will show it at banks. [—]

6. Retitle your bank and brokerage accounts in the Trust's name ("[Trust Name], dated [Date], and any amendments thereto," with the trustee(s) as trustees — not individually). [REQUIRED]
7. Retitle your vehicles through the state DMV using the trust's titling format from Schedule B. [REQUIRED if vehicles are being funded]
8. Retitle personal property that carries a paper title (boats, trailers, mobile homes) the same way as vehicles; non-titled personal property is assigned to the Trust via the assignment in the kit. [REQUIRED if applicable]
9. Review every beneficiary designation (life insurance, retirement accounts, POD/TOD, payable-through accounts) with your attorney. [ATTORNEY-CONFIRM: strategy verify — beneficiary designations interact with the trust plan and tax status.]
10. State-specific items for this module: complete the items below; the statute citations in this module govern this state's variations. [—]

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CRITICAL — FUNDING WARNING: A trust only avoids probate for assets titled in the Trust's name at your
death. An unfunded or partially funded trust does nothing for the assets left out. Complete every
retitling step above BEFORE relying on the trust.
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After you sign: fund the trust (retitle accounts and record deeds), then store the signed instrument, the recorded deed, and the Certification of Trust together.

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Why (for your records): The statute citations below explain the legal authority for each requirement.
The "WHAT YOU MUST DO" section above is the only part you need to follow day-to-day.

This is a DRAFT addendum module prepared by AnchorPointTrusts for attorney-council review. It does
not constitute legal advice. All statute citations should be verified by counsel before use in
client-facing documents. Louisiana is not served as a situs state.
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