



The Florida Bar

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MEMORANDUM

To: Selected Division, Section & Committee Chairs / Chairs-elect
From: Gypsy Bailey, General Counsel
Re: Sunset of The Florida Bar Legislative Positions of the 2018-20 Biennium
Date: May 11, 2020
cc: Board of Governors; Josh Doyle; Rosalyn Scott; Selected Division, Section & Committee Liaisons and Lobbyists; Selected Division, Section & Committee Legislative Chairs; Jim Daughton; Aimee Diaz Lyon; Joni Hooks

Pursuant to [Standing Board Policy](#) 9.20(e), all legislative positions of The Florida Bar (TFB) for the 2018-20 biennium – including those of committees, sections and divisions – will sunset at the July 2020 meeting of the Board of Governors (BOG).

Attached is a current list of recognized positions for your divisions, sections and committees; please review your group's positions and identify those you wish to continue to advocate in the 20-22 biennium that begins with the legislature's first 2021 organizational session. Feel free to return a marked-up copy of the attachment to indicate your preferences. For your reference, the complete master list of all legislative positions within TFB is available [here](#).

Existing legislative positions of voluntarily-funded Bar groups (all sections and the Out-of-State Division) that you recommend for continued advocacy are typically reapproved by the board. Your response to this memo by Monday, June 15, 2020 will allow for timely rollover action by the BOG at its July 2020 meeting without any lapse of your group's current positions. Keep in mind that requests for new legislative positions by your group must follow Standing Board Policy 9.20(d), using this [form](#).

THE FLORIDA BAR

Existing legislative positions of the Bar, its committees, and the Young Lawyers Division (YLD) that are supported by mandatory membership fees are handled differently. Following the sunset of these positions, the BOG usually leaves this portion of TFB's legislative platform blank until later in the year. Any positions considered after this period are reviewed and treated as new in every respect, particularly for purposes of member dissent and potential fee rebates under Rule 2-9.3, [Rules Regulating The Florida Bar](#). Please share legislative position recommendations you have for TFB, its committees and the YLD with the Office of General Counsel (OGC).

The OGC offers its assistance to all Bar groups concerning legislative activities. Off-season legislative emergencies may be considered by the Executive Committee or President at any time. Feel free to contact me or Joni Hooks by email – gbailey@floridabar.org / jhooks@floridabar.org - or phone – (850) 561-5662 / (800) 342-8060, x5662. We look forward to working with you.

Attachment

Bankruptcy / Uniform Commercial Codes / Debtor-Creditor Issues

July 27, 2018

~~1. Supports Revised Article I of the Uniform Commercial Code, as developed by the National Conference of Commissioners on Uniform State Laws (NCCUSL).~~

~~2. Supports legislation to update or modernize the assignment for benefit of creditors in Chapter 727, Florida Statutes.~~

1. ~~3.~~ Supports the creation of §~~702.55~~702.13 Florida Statutes, providing for notice to homeowner in mortgage foreclosure action of possibility of relief under U. S. Bankruptcy Code.

2. ~~4.~~ In any proposed legislation regarding “Credit Counseling Services”, supports clear definitions and language to exclude licensed Florida attorneys, including bankruptcy attorneys who represent debtors, from the scope of the bills.

~~5. Supports Revised Article 7 of UCC developed by NCCUSL relating to electronic documents of title, warehouse receipts, and bills of lading.~~

~~6. Supports providing federal bankruptcy exemption for alimony, support or separate maintenance, that has already been received, to the extent necessary for the support of the debtor or his/her dependents.~~

3. ~~7.~~ Opposes any amendment to existing Florida law governing real property foreclosures unless those amendments carefully preserve and protect the property rights and due process rights of the holders of interests in or affecting Florida real property.

~~8. Supports proposed updating and clarifying Uniform Law Commission / NCCUSL amendments to Article 9 UCC/FS Ch. 679.~~

4. ~~9.~~ Supports enactment of a separately credited financial literacy course as a prerequisite for high school graduation and a standard high school diploma, ~~consistent with the requirements set forth in HB 367 and SB 212.~~

5. ~~10.~~ Supports ~~amendments to~~enactment of the Uniform ~~Fraudulent Transfer Act~~Voidable Transfers Act in Florida, as promulgated by the National Conference of Commissioners on Uniform State Laws (NCCUSL). ~~which would amend the current Chapter 727, Uniform Fraudulent Transfer Act.~~

6. ~~11.~~ Supports the Bankruptcy Venue Reform Act of ~~2017~~2019 or any similar subsequent legislation.

February 8, 2019

7. ~~12.~~ Opposes amendments to Section 689.151, Fla. Stat. that would (1) permit an owner of personal property create a tenancy by the entireties by a direct transfer to the owner and the owner’s spouse, notwithstanding the absence of the required common law unities of time and title, and/or (2) change

the

presumptions to (a) require “clear and convincing” proof that TBE was not intended or created, and (b) create a “conclusive presumption” as to the “intent to create a tenancy by the entirety” when a spouse’s name is added to an ownership document.

~~July 19, 2019~~

~~13. Supports the Honoring American Veterans in Extreme Need Act of 2019 (the "HAVEN" Act—S.679 and HR.2938—) or any similar subsequent legislation.~~

September 25, 2019

~~14. Supports legislation to enact the Uniform Commercial Real Estate Receivership Act (UCRERA) as developed by the National Conference of Commissioners on Uniform State Laws (NCCUSL) and as revised by UCRERA Task Force of the Business Law Section.~~

~~8. 15.~~ Supports legislation to update and clarify Section 55.205, F.S., Effect of judgment lien, to explicitly cross-reference section 319.27, F.S.

Business Entities / Securities / Financial Services

July 27, 2018

1. Opposes legislation to impose income tax on limited liability companies and subchapter S corporations.
2. Supports glitch amendments of a technical, corrective and clarifying nature to Florida Statutes, Chapter 607 re: Corporations, Chapter 605 re: Limited Liability Companies, Chapter 617 re: Not For Profit Corporations and Chapter 620 re: Partnerships and Limited Partnerships.
3. Opposes legislation that would transfer the functions of the Division of Corporations in the Department of State to the Department of Revenue.
4. Opposes “sunset” of the Division of Corporations of the Department of State.
5. Supports clarification of Florida Statutes, Section 213.758 "Transfer of tax liabilities" in order to streamline the transfers of businesses and stocks of goods.
6. Opposes changes to Ch. 607, F.S. which addresses the filing of biennial reports by domestic and foreign corporations.

October 12, 2018

7. Supports proposed legislation updating and modernizing the Florida Business Corporation Act (Chapter 607 of the Florida Statutes), harmonizing certain of those provisions with provisions in other

Florida entity statutes, including within Chapters 605 and 620, and cleaning up certain glitches within such other Florida entity statutes.

Business Litigation / Alternative Dispute Resolution

July 27, 2018

1. Supports the replacement of word “files” and “filing” with “serves” and “serving” wherever they appear in subsection (1) of §768.79, the Order of Judgment and Demand for Judgment Statute.
2. Supports changing the substantive law that governs international commercial arbitration in Florida, specifically by adoption of the UNCITRAL model international commercial arbitration law.
3. Opposes HB 1135 (2009 Session) and SB 2192 (2009 Session) proposing creation of the Florida Consumer and Small Business Arbitration Act.
4. Supports legislation providing for award of attorney’s fees for time incurred litigating the amount of attorney’s fees a prevailing party may recover pursuant to a fee-shifting provision of a statute, rule or contract.
5. Opposes SB 1294 & HB 1273 (2011) or similar legislation regarding the choice of foreign laws, legal codes, or systems that declare certain court decisions rendered under such laws, codes, or systems are void, that certain choice of venue or forum provisions in contracts are void, or that claims of *forum non conveniens* or related claims must be denied under certain circumstances.
6. Supports update and modernization of the Florida Arbitration Code, F.S. Ch. 682, via enactment of the Revised Uniform Arbitration Act (“RUAA”).
7. Opposes amendments to F.S. §48.031 re service of process, and to F.S. §56.27 re executions and payment of money collected, as proposed in SB 1268 (2013) and HB 1379 (2013).

Intellectual Property / Computer Law

July 27, 2018

1. Opposes changes that weaken contracts governed under current franchise laws and expand claims available under Florida’s Unfair and Deceptive Trade Practices Act.

October 12, 2018

2. Supports ensuring the identification of goods and services in the Revised Model Trademark Act, Ch. 495, Fla. Stat., conforms to Federal Law.

Judiciary / Administration of Justice

July 27, 2018

1. Supports adequate funding of the state courts' system, state attorneys' offices, public defenders' offices, and court-appointed counsel.

2. Supports legislation consistent with the Supreme Court of Florida's certification of need for additional judges.
3. Supports the funding and allocation of appropriate and necessary resources to fund complex business litigation pilot projects in the 9th, 11th, 13th, and 15th judicial circuits, provided that pilot project funding is to be in addition to existing court funding.
4. Supports adequate funding for civil legal assistance to indigent persons through the Florida Access to Civil Legal Assistance Act.
5. Opposes term limits for judges at any level of Florida's state court system.

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