

Legislative Positions 2018-2020 — Business Law Section

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.
3. Supports the creation of §702.55 Florida Statutes, providing for notice to homeowner in mortgage foreclosure action of possibility of relief under U. S. Bankruptcy Code.
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.
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.
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.
10. Supports amendments to the Uniform Fraudulent Transfer Act promulgated by the National Conference of Commissioners on Uniform State Laws (NCCUSL).
11. Supports the Bankruptcy Venue Reform Act of 2017 or any similar subsequent legislation.

FEBRUARY 8, 2019

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.

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 Offer 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.