

**Agenda for the Bankruptcy/Uniform Commercial Code
Committee of the Business Law Section of the Florida Bar**

Annual Florida Bar Virtual Convention – Thursday, June 18, 2020, 9:00 – 11:00 a.m.
Zoom Meeting

John Hutton, Chair
Jennifer Morando, Legislative Vice-Chair
Jim Moon, Vice-Chair
Hon. Catherine Peek McEwen, Judicial Chair
Prof. Jeff Davis, Academic Chair

I. Welcome and Approval of Minutes from the Prior Meeting

John Hutton

Minutes are attached as **EXHIBIT A**

II. Introductions and Announcements

John Hutton

III. Business Law Section Update & Welcome

Jay Brown, Section Chair

Leyza Blanco, Section Chair-Elect

Kacy Donlon, Section Treasurer

Doug Bates, Section Secretary

IV. Legislation

a. *Legislative Update for 2020 Session*

Mark Stein, Jennifer Morando

Aimee Diaz Lyon, Section Lobbyist

i. *Review of Standing Legislative Positions*

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 BK/UCC; Leadership has been asked to please review our group's positions and identify those we wish **to continue to advocate in the 20-22 biennium** that begins with the legislature's first 2021 organizational session.

With that in mind, John, Jim and Jennifer have prepared a redline, which is attached, showing revisions to the proposed standing positions, focusing on those that we **currently** intend to advocate.

Jennifer Morando

EXHIBIT B

ii. Legislative Review Subcommittee

Jennifer Morando

b. Reports from Study Groups of Ongoing Projects

i. Aviation Committee Legislation

Lynn Sherman

ii. Digital/Cryptocurrency Regulation

(Section wide task force)

Blockchain legislation passed, see **Exhibit C**

HB 1391 & HB 1393

These bills create a Financial Technology Sandbox program in Florida within the Office of Financial Regulation, to license financial technology innovators to test new innovative financial products and services within the areas of a regulatory sandbox using exceptions of specified general law and waivers of the corresponding rule requirements under defined conditions in the consumer finance, payment instruments sellers, and money transmitter programs.

John Hutton

*iii. Uniform Commercial Real Estate Receivership Act – Passed by Florida legislature! Pending signature by Governor (joint with Biz Lit & RPPTL); Attached for informational purposes as **Exhibit D** is the final version of the UCRERA legislation, as passed.*

Kenny Murena

Hon. Mindy Mora

iv. Bankruptcy Venue Reform Act of 2019

John Hutton

Hon. Catherine Peek McEwen

v. Judgment Liens excepted from title vehicle statute- Update

Prof. Davis

Jodi Dubose

- vi. *Fla. Stat. § 689.151 Revisions* (TBE legislation pushed by RPPTLs);
Update
Andy Layden
John Hutton
Doug Bates
Mark Wolfson
- vii. *Foreclosure Notice Bill* (most recent version attached as **EXHIBIT E**)
Judge McEwen
Douglas Bates
- viii. *Proposed Amendments to UCC 9-406 and 9-408* – White paper
attached as **EXHIBIT F**
(joint with Corporations)
Jeff Davis
Matt Hale
- ix. *Creating an App for FRBP/Code*
Mark Healy
- x. *Financial Literacy Task Force*
Amanda Finley

c. Items to be Monitored

- i. *Northern District Judgeships/Divisions*
Hon. Karen Specie
Jodi Dubose
Doug Bates
- ii. *Judicial Term Limits/Legislative Oversight of Judicial Decisions*
Doug Bates
Jodi Dubose
- iii. *Uniform Voidable Transaction Act Amendments*
John Hutton
- iv. *Chapter 48 Amendments*
(joint with Biz Lit)
Adina Pollan

V. Continuing Legal Education, Communications, and Publications

- a. *Communications Committee Report*
Matt Hale
Shirley Palumbo (BLS Blog)
- b. *CLE Committee Report*
Cori Lopez-Castro
 - i. Florida Bar Journal
- c. *Future CLE Programs*
Brett Lieberman/Andrew Layden
 - i. UCREA seminar had been scheduled for June 11, but postponed because Governor has still not signed; will be rescheduled.
 - ii. Joint Seminar with Tax Section on Bankruptcy Tax issues
July/August; 4 sessions contemplated
 - iii. COVID Task Force; at least 8 members of BK/UCC involved; ongoing programs (Business UNusual: A Practical Overview of Bankruptcy in Florida amidst COVID-19 will be available on demand soon)
- d. *Out of State Division Newsletter Submissions*
Hon. Catherine Peek McEwen
Don Workman

VI. Cross-Committee Partnership and Liaison Reports

- a. *Current Partnership Initiatives*
Jim Moon, John Hutton
- b. *Liaison Reports*
 - i. *Pro Bono* – [Lynn Sherman]
 - ii. *IMF Committee* – [Mariane Dorris]
 - iii. *Membership Committee* – Andrew Layden

VII. Old Business

VIII. New Business

- a. *Kearney*: RPPTL group seeks an amendment to Fla Stat 222, in light of the 11th Circuit decision in *Kearney Constr. Co., LLC v. Travelers Cas. & Sur. Co. of*

Am., 2019 WL 5957361 at *3 (11th Cir. 2019). Kearney essentially held that an “all assets” pledge included the pledgor’s interest in exempt IRA accounts. The RPPTLs have prepared a proposed legislative fix and a white paper, both of which are attached as **Exhibit G**.

The RPPTLs want to move forward on this as a priority legislative item in the upcoming session. They are looking for our support.

b. Proposed COVID-19 Business Recovery Plan

State court requested BK/UCC input on a proposal to create a non-liquidating receivership program in state court for businesses impacted by COVID-19; proposal was akin to a small business Chapter 11 process, with certain obvious limitations. Study group met and essentially decided that, although well-intentioned, new Subchapter V for small business is a better option for small business

John Hutton

c. Warehouse Liens (the notice/sale procedures and dispute remedies of 713.585 if the warehouse lien involves a motor vehicle); **Exhibit H**

Dennis LeVine

IX. Future Meeting Dates

- a. BLS Labor Day Retreat – September 4-7, 2020
Ritz Naples (or virtual??)

X. Adjourn