

THE FLORIDA BAR BUSINESS LAW SECTION
CORPORATIONS, SECURITIES AND FINANCIAL SERVICES
COMMITTEE MEETING

Saturday, September 1, 2018
Hyatt Regency Coconut Point
Bonita Springs, Florida

MINUTES

1. Call to Order and Welcome. Meeting was called to order at 9:30 AM by Andrew Schwartz, Chair of the Committee, who presided at the meeting.
2. Introduction of Members and Guests Present. All members present at the meeting, and all guests attending the meeting, introduced themselves and signed an attendance sheet. In addition, the current executive officers of the Section visited the meeting to give an update to those in attendance of the general activities of the Section.
3. Approval of Minutes. Upon motion, duly seconded, the minutes of the June 14, 2018, Committee meeting were unanimously approved.
4. Chapter 607 Revision Sub-Committee Update. Philip Schwartz and Gary Teblum discussed the current status of revisions to Chapter 607 and informed the Committee that the Sub-Committee had a good meeting on Friday, August 31, 2018. Messrs. Schwartz and Teblum informed the committee that there were a few key issues that they wanted Committee consensus on.

The Committee discussed the issue of whether non-voting shares should be afforded appraisal rights under the FBCA. The Committee discussed that the DGCL and the Model Act both provide that non-voting shares have appraisal rights. After deliberations took place, Mr. Schwartz informed the Committee that the Sub-Committee recommended that Chapter 607 be amended to grant non-voting shares appraisal rights and asked whether there were any objections to that recommendation. No objections were made.

The Committee next discussed the use of domestication in Florida and the proposed revisions to the FBCA. Mr. Lou Conti and Mr. Schwartz shared their respective thoughts in the issue. Ultimately, the Committee came to a consensus that it should follow the proposal made by the Sub-Committee which mirrors subsections (a) and (b) of Section 9.20 of the Model Act.

The Committee next discussed the issue of whether 607.1202 of the FBCA should contain a safe-harbor for what constitutes “substantially all” of the assets of a Florida corporation. The Committee discussed the Model Act’s safe-harbor and whether to adopt a similar provision. Committee members expressed concerns regarding what the appropriate percentage threshold would be. Mr. Schwartz expressed concerns regarding whether a percentage threshold is an appropriate indicator without taking into account the nature of the assets sold. Ultimately, the Committee decided not to add a quantitative safe harbor to 607.1202.

5. Approval of Chapter 607 Proposal and Recommendation of Proposal to Executive Counsel. Phil Schwartz made a motion to approve the amendments to Chapter 607 that have been proposed by the Sub-Committee (subject to certain minor edits that were delegated to the Sub-Committee) and that such amendments be presented to the Executive Counsel. The Committee approved the motion.
6. Third Party Opinion Standards Committee Update. Robert Barron reported on the status of the proposed Statement of Opinion Practices. [He stated that the statement will be taken up by the ABA Business Law Section Legal Opinions Committee in September and by WGLO Board of Directors in October, at which point bar groups will be asked to sign on to the statement. He stated that it has taken five years to get to this point, and that it is an effort to develop national standards in opinions. Mr. Barron stated that the plan is to bring the approval up at the 2019 Mid-Year Meeting.
7. Chapter 605 Update. The Committee discussed Chapter 605. The issues that the committee will look at in the future include whether to adopt series limited liability companies, harmonization with Chapter 607 and coordination with Chapter 48 service of process.
8. Social Media. The Committee’s Chair, Andrew Schwartz, discussed the Committee's social media outreach, stating he has created a LinkedIn page for the Committee and that invitations will be sent out to all of the Members soon.
9. Volunteers for CLE, Inclusion and Mentoring Committees. The Committee’s Chair, Andrew Schwartz, informed the Committee that the Business Law Sections needs volunteers for the CLE, Inclusion and Mentoring Committees and that any interested Committee members should contact him.

10. Other Business. Gregory Yadley discussed the 37th Annual Federal Securities Institute annual meeting which will be held February 11-12, 2019 in Coconut Grove and encouraged members to attend.

11. Meeting Adjourned. The Meeting was adjourned at 11:30 am.