

# Business Law Section 2020-2022 Legislative Positions

## 1. Bankruptcy / Uniform Commercial Codes / Debtor-Creditor Issues

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.

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.

Supports enactment of a separately credited financial literacy course as a prerequisite for high school graduation and a standard high school diploma.

Supports the Uniform Fraudulent Transfer Act in Florida, as promulgated by the National Conference on Uniform State Laws (NCCUSL), which would amend the current Chapter 727, Uniform Fraudulent Transfers Act.

Supports the Bankruptcy Venue Reform Act of 2019 or any similar subsequent legislation.

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.

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

Supports changes to Chapter 222 F.S. that protect Florida residents from unintentionally assigning, pledging, or waiving rights to assets that are otherwise exempt from legal process. (Added Oct. 23, 2020)

Supports the creation of §702.13 Florida Statutes, providing for notice to homeowner in mortgage foreclosure action of possibility of relief under U.S. Bankruptcy Code. (Added Oct. 23, 2020)

Supports amendments to Chapters 55, 56 and 319 to (i) clarify the effect of a certificate of title on a judgment lien, and (ii) establish procedures for enforcement of a judgment lien against a motor vehicle, mobile home, or vessel. (Added 7/23/2021)

Supports legislation to amend Fla. Stat. §§679.4061 and 679.4081 to clarify that certain “overrides” of restrictions on transferability do not apply to an ownership interest in a general partnership, limited partnership or limited liability company. (Added 7/23/2021)

## **2. Business Entities / Securities / Financial Services**

Opposes legislation to impose income tax on limited liability companies and subchapter S corporations.

Opposes legislation that would transfer the functions of the Division of Corporations in the Department of State to the Department of Revenue.

Opposes “sunset” of the Division of Corporations of the Department of State.

Supports clarification of Florida Statutes, Section 213.758 “Transfer of tax liabilities” in order to streamline the transfers of businesses and stocks of goods.

Opposes changes to Ch. 607, F.S. which addresses the filing of biennial reports by domestic and foreign corporations.

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.

Supports proposed legislation updating and modernizing the Florida Business Corporation Act and other for profit and not for profit business entities. (Added Oct. 3, 2020)

### **3. Business Litigation / Alternative Dispute Resolution**

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.

Supports amending Florida Statute 542.335 relating to restrictive covenants in a manner to provide exemptions to employees receiving limited compensation and to provide the court additional discretion in those same cases to interpret restrictions in a manner consistent with traditional contract rules of construction. (Added Oct. 23, 2020)

Supports changes to Ch. 48, F.S. and Ch. 15, F.S. to (1) simplify the methods of service of process on business entities to eliminate redundancies and inconsistencies, (2) clarify the statutory scheme to avoid confusion, (3) better elucidate the methods for effectuating service of process in foreign countries, and (4) modernize the methods and procedures for service of process on business entities, while ensuring compliance with fundamental notions of due process. (Added 7/23/2021)

#### **4. Intellectual Property / Computer Law**

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

Supports legislation that defines blockchain technology in such a manner as to encourage innovation in the blockchain space without tying any statutory definition to a specific implementation of the technology. (Added Oct. 23, 2020)

Supports amending pending legislation relating to trade secret information to require Florida state agencies to inform potential bidders, vendors, service providers, contractors and/or others that may engage in business with state agencies that their submission of information to an agency may waive trade secret protection and to further require informed consent by potential bidders, vendors, service providers, contractors and/or others that may engage in business with the state agencies, in order to prevent inadvertent waiver of said trade secrets and potential litigation. (Added Oct. 23, 2020)

Supports legislation relating to data privacy and protection, including cybersecurity, that strikes the appropriate balance between protecting personal information without placing undue restrictions on business development or unnecessarily stifling technological advancement in this state. (Added Oct. 23, 2020)

## **5. Judiciary / Administration of Justice**

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

Supports legislation consistent with the Supreme Court of Florida's certification of need for additional judges.

Supports adequate funding for civil legal assistance to indigent persons through the Florida Access to Civil Legal Assistance Act.

Opposes term limits for judges at any level of Florida's state court system.