**Corporations, Securities and Financial Services Committee**

**Of the Business Law Section of the Florida Bar**

June 23, 2022

Below are the current legislative positions taken by the BLS which specifically apply to the Corporations, Securities and Financial Services Committee (“CSFS”). We are required to vote as to whether we would like to maintain our legislative position on these or allow them to “sunset.” If we take no action, they will sunset and our legislative positions will lapse.

Per the Legislative Committee’s request, we’ve included a small blurb below each as to why we would choose to maintain the positions and not allow them to sunset. We welcome comments as we will be voting on this at the CSFS meeting in order to notify the Legislative Committee as to our position to present to the Executive Committee.

**Business Entities / Securities / Financial Services**

1. Opposes legislation to impose income tax on limited liability companies and subchapter S corporations.
   * Maintaining a friendly tax environment for businesses in Florida is essential to continuing to attract and maintain businesses who are forum shopping as to where to domesticate or establish themselves. Failure to maintain this position could result in limited liability companies and subchapter S corporations no longer being exempt and instead being subject to the 5.5% income tax imposed on corporations in Florida.
2. Opposes legislation that would transfer the functions of the Division of Corporations in the Department of State to the Department of Revenue.
   * The Department of Revenue (“DOR”) handles tax and child support administration. The DOR Administers three main programs: Child Support Program; General Tax Administration; and Property Tax Oversight. The Division of Corporations supervises and coordinates the activities, duties, and responsibilities of the Division’s two bureaus which are responsible for examining and indexing business and commercial documents submitted to the Division of Corporations for processing, updating the Division’s records, providing certification, authentication, imaging and informational services on behalf of the Division of Corporations, and accepting substitute service of process. Maintaining the integrity of each Departments as separate and distinct with each of its own functions is integral to the efficiency of establishing, maintaining and updating business entities and their records.
3. Opposes “sunset” of the Division of Corporations of the Department of State.
   * Same note as in clause b above.
4. Opposes changes to Ch. 607, F.S. which addresses the filing of biennial reports by domestic and foreign corporations.
   * Requiring the filing of biennial reports by domestic and foreign corporations would place an undue burden on business entities in Florida and would disincentivize businesses looking to establish or domesticate their business here.
5. Supports proposed legislation updating and modernizing the Florida Business Corporation Act (Chapter 607 of the Florida Statutes), the Florida Revised Limited Liability Company Act (Chapter 605 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.
   * In keeping in line with other leadings states like Delaware that update their corporate and other business entity statutes no less than annually, we must continue updating the Florida Business Corporation Act and the Florida Revised Limited Liability Company Act in order to stay competitive with other states and in order to adapt these statutes, as necessary, to reflect the state’s ability to resolve current issues concerning businesses who chose to, or desire to, establish themselves in Florida.
6. Supports proposed legislation updating and modernizing the Florida Business Corporation Act and other for profit and not for profit entity statutes. (added 10/3/2020).
   * Same note as above.
7. Supports proposed legislation establishing a series LLC act (added 06/21/22).
   * Currently, the following states and U.S. territories have Series LLC legislation: Alabama, District of Columbia, Illinois, Iowa, Kansas, Missouri, Montana, Nevada, Oklahoma, Tennessee, Texas, Utah, Puerto Rico and Delaware. As the use of Series LLC’s becomes more understood and used, the interest in having more states adopted series LLC legislation has increased. The Uniform Law Commission is in the process of drafting a Uniform Series LLC Act (“USLA”) for the other 38 states that do not have series LLC statutes in place to consider the USLA as a model. As such, if Florida is to maintain its position as a “business-friendly” state, proposed legislation adopting a series LLC Act is necessary.
8. Supports the legislative proposals amending of Chapter 517, the Florida Securities and Investor Protection Act.
   * Ch. 517 has become outdated and in ineffective in incentivizing small businesses to raise capital. Changes to 517 are necessary if the State aims to make the capital raising process easier for small businesses without making it unduly burdensome on them, and while also protecting the public from fraud.
9. Opposes legislation, including without limitation currently proposed legislation to amend Section 542.275, Florida Statutes, that directly or indirectly requires pre-closing notice and/or providing of information to the Office of the Florida Attorney General as to certain merger and acquisition transactions and/or requires post-closing filing of a notice and/or providing information to the Office of the Florida Attorney General without reasonable exemption for Florida’s Sunshine Laws. (added 2/3/2022)
   * *See* white paper attached (previously circulated on January 27, 2022). The BLS maintains this legislative position.