

## Business Law Section 2024-2026 Legislative Positions

### **Bankruptcy / Uniform Commercial Codes / Debtor – Creditor Issues**

- a. 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.
- b. Supports amendments to the Uniform Fraudulent Transfer Act promulgated by the National Conference of Commissioners on Uniform State Laws (NCCUSL), which would amend the current Chapter 727, Uniform Fraudulent Transfers Act.
- c. Supports the Bankruptcy Venue Reform Act of 2021 or any similar subsequent legislation.
- d. 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.
- e. Supports changes to Chapter 222 S. that protect Florida residents from unintentionally assigning, pledging, or waiving rights to assets that are otherwise exempt from legal process.
- f. 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.
- g. Supports any amendment that would include a periodic upward adjustment akin to the automatic adjustment built into Bankruptcy Code Section 104.
- h. Supports amendments to the Florida's Uniform Commercial Code promulgated by the National Conference of Commissioners on Uniform State Laws (NCUSL), which will add Chapter 669 (Article 12, Controllable Electronic Records), and amend portions of Florida's Uniform Commercial Code, Fla. Stat. §§ 661-680. [Added 12/13/24]
- i. Opposes legislation amending certain sections of Chapter 45, Florida Statutes, relating to judicial sales procedures if the legislation substantially impairs the existing rights and remedies of secured lenders in foreclosure sales or affects sale processes outside of the foreclosure context. [Added 3/28/2025]

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

- a. Opposes legislation to impose income tax on limited liability companies and subchapter S corporations.
- b. Opposes legislation that would transfer the functions of the Division of Corporations in the Department of State to the Department of Revenue.
- c. Opposes "sunset" of the Division of Corporations of the Department of State.
- d. Opposes changes to 607, F.S. which addresses the filing of biennial reports by domestic and foreign corporations.
- e. 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.

- f. Supports the legislative proposals by the Florida Office of Financial Regulation for the amendment of Chapter 517, the Florida Securities and Investor Protection Act, as presented to the Section by the Office of Financial Regulation.
- g. 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.
- h. Supports proposed legislation addressing changes and updates to Chapter 607, Florida Statutes, the Florida Business Corporations Act, primarily including the addition of provisions addressing ratification of defective corporate actions and over issuances of securities.
- i. Supports proposed legislation updating and modernizing Chapter 517 of the Florida Statutes – The Florida Securities and Investor Protection Act.
- j. Supports legislation that would add new subsections 605.12101 through 605.12803 to the existing Florida Revised Uniform Limited Liability Company Act (Chapter 605) to implement rules for the creation of Protected Series in Florida limited liability companies, and to provide rules applicable to foreign series limited liability companies doing business in Florida.

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

- a. 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.
- b. Supports changes to Ch. 48, F.S. and other statutory provisions addressing service of process 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.
- c. Supports the Real Property, Probate and Trust Law Section of The Florida Bar position to create Section 49.072, F.S., establishing a process to serve unknown parties in possession of real property.
- d. Opposes codification of tortious interference claims that: (1) creates uncertainty in commercial transactions; (2) stifles competition; (3) imposes treble or punitive damages; (4) allows for one-sided attorney's fees; and (5) is vague and ambiguous.
- e. Supports legislation amending § 501.207(3) of the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA").
- f. Supports proposed legislation amending certain sections of Chapter 48, Florida Statutes, so as to further clarify the law relating to service of original process in civil actions and to address issues arising in connection with the implementation of Chapter 2022-190, Laws of Florida, relating to service of original process on business entities and in certain other respects. [Added 12/13/24]

- g. Supports proposed legislation amending certain sections of Chapter 44, Florida Statutes, so as to clarify the law relating to the availability and methods and procedures for the use of voluntary trial resolution and eliminate provisions relating to binding arbitration. [Added 12/13/24]
- h. Support the addition of garden leave agreement provisions to the Florida Statutes, including those set forth in SB 922 and HB 1219 , along with providing technical amendments in order to fine tune such proposed garden leave agreement provisions, but oppose those portions of SB 922 and HB 1219 that relate to and address “covered non-compete agreements” because they conflict with s. 542.335, Fla. Stat., and longstanding legal standards that have been developed by the Florida courts under s. 542.335 relating to employee/consultant restrictive covenants and which provide for a reasonable balance of the interests of employers and employees/consultants. [Added 4/9/2025]

### **Intellectual Property / Computer Law**

- a. Opposes changes that weaken contracts governed under current franchise laws and expand claims available under Florida Deceptive and Unfair Trade Practices Act.
- b. 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.
- c. 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.
- d. 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.

### **Judiciary / Administration of Justice**

- a. Supports adequate funding of the state courts’ system, state attorneys’ offices, public defenders’ offices, and court-appointed counsel.
- b. Supports legislation consistent with the Supreme Court of Florida’s certification of need for additional judges.
- c. Supports adequate funding for civil legal assistance to indigent persons through the Florida Access to Civil Legal Assistance Act.