

LEGISLATIVE POSITION REQUEST FORM

GOVERNMENTAL AFFAIRS OFFICE

Date Form Received _____

GENERAL INFORMATION

Submitted By Real Property, Probate and Trust Law Section, Probate Law & Procedure Committee, Chair, Tae Kelley Bronner (August 1, 2009)

Address Tae Kelley Bronner, P.L., 10006 Cross Creek Blvd., PMB # 428, Tampa, FL 33647, (813) 907-6643, tae@estatelaw.com

Position Type The Florida Bar, RPPTL Section and Committee

CONTACTS

Board & Legislation Committee Appearance

John Severson., Burns and Severson, P.A., P.O. Box 349, West Palm Beach, FL 33402, Telephone (561) 687-2003.
Tae Kelley Bronner, Tae Kelley Bronner, P.L., 10006 Cross Creek Blvd., PMB #428, Tampa, FL 33647 Telephone (813) 907-6643
Michael J. Gelfand, Gelfand & Arpe, P.A., Regions Financial Tower, Suite 1220, 1555 Palm Beach Lakes Blvd., West Palm Beach, FL 33401 Telephone (561) 655-6224.
Peter M. Dunbar, Pennington, Moore, Wilkinson, Bell & Dunbar, P.O. Box 10095, Tallahassee, Florida 32302-2095, Telephone (850) 222-3533.
Martha J. Edenfield, Pennington, Moore, Wilkinson, Bell & Dunbar, P.O. Box 10095, Tallahassee FL 32302-2095, Telephone (850) 222-3533.
(List name, address and phone number)

Appearances

Before Legislators

(SAME)

(List name and phone # of those having face to face contact with Legislators)

Meetings with

Legislators/staff

(SAME)

(List name and phone # of those having face to face contact with Legislators)

PROPOSED ADVOCACY

All types of partisan advocacy or nonpartisan technical assistance should be presented to the Board of Governors via this request form. All proposed legislation that has *not* been filed as a bill or a proposed committee bill (PCB) should be attached to this request in legislative format - Standing Board Policy 9.20(c). Contact the Governmental Affairs office with questions.

If Applicable,

List The Following

N/A

(Bill or PCB #)

(Bill or PCB Sponsor)

Indicate Position

X

Support

Oppose

Technical
Assistance

Other

Proposed Wording of Position for Official Publication:

Support allowing the filing of a pre-death caveat by an interested party to a probate proceeding, other than a creditor of the estate, and to remove inconsistencies with Fla. Prob. R. 5.260, including amending F. S. §731.110.

Reasons For Proposed Advocacy:

Under the current law, no actual notice of the initiation of a probate proceeding is required unless a caveat has been filed. However, it is difficult to determine when an individual who is the subject of undue influence has died, especially if they have been isolated from contact with their family. The committee believes that it is in the best interest of the public to allow the filing of a caveat by an interested party, other than a creditor, pre-death. Under the current law, the ability of an interested person to file a caveat before the death of an individual is unclear and has been applied inconsistently by the clerks of court throughout the state. The amendment clarifies the right of an interested party, other than a creditor, to file a caveat before the death of

an individual and reconciles the statute with the corresponding probate rule. The amendment does not change the substantive right of a creditor or interested person to file a post-death caveat. To limit the burden on the clerks of court, the amendment provides a pre-death caveat shall expire two (2) years after filing.

PRIOR POSITIONS TAKEN ON THIS ISSUE

Please indicate any prior Bar or section positions on this issue to include opposing positions. Contact the Governmental Affairs office if assistance is needed in completing this portion of the request form.

Most Recent Position NONE
(Indicate Bar or Name Section) (Support or Oppose) (Date)

Others

(May attach list if
more than one)

NONE
(Indicate Bar or Name Section) (Support or Oppose) (Date)

REFERRALS TO OTHER SECTIONS, COMMITTEES OR LEGAL ORGANIZATIONS

The Legislation Committee and Board of Governors do not typically consider requests for action on a legislative position in the absence of responses from all potentially affected Bar groups or legal organizations - Standing Board Policy 9.50(c). Please include all responses with this request form.

Referrals

Clerks of Court Unknown
(Name of Group or Organization) (Support, Oppose or No Position)

(Name of Group or Organization) (Support, Oppose or No Position)

(Name of Group or Organization) (Support, Oppose or No Position)

Please submit completed Legislative Position Request Form, along with attachments, to the Governmental Affairs Office of The Florida Bar. Upon receipt, staff will further coordinate the scheduling for final Bar action of your request which usually involves separate appearances before the Legislation Committee and the Board of Governors unless otherwise advised. For information or assistance, please telephone (904) 561-5662 or 800-342-8060, extension 5662.