



The Florida Bar



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October 5, 2009

Mr. John B. Neukamm, Chair
Mechanik Nuccio Hearne & Wester, P.A.
305 S. Boulevard
Tampa, FL 33606

Re: Report of Florida Bar Board of Governors Action

VIA E-MAIL ONLY

Dear Mr. Neukamm,

During its regular meeting on September 25, 2009 the Board of Governors of The Florida Bar considered the requests by the Real Property, Probate and Trust Law Section for new section legislative positions.

Upon review of the requests, the Board determined the proposals were consistent with applicable Bar policy concerning section legislative activity (SBP 9.50) and opted not to prohibit section advocacy of those issues. Consistent with your submissions, these newly recognized positions of the Real Property, Probate and Trust Law Section will be officially published within the 2008-10 Master List of Positions as follows:

Supports amendment to F.S. §695.01 and ch 162 to reduce problems regarding hidden liens by: (i) requiring all governmental liens (other than taxes, special assessments and those for utility services) to be recorded in the official records and to state their priority; (ii) clarifying the priority of liens asserted by local governments; and (iii) expanding the homestead determination mechanisms of F.S. §222.01 to apply to other types of lien.

Supports legislation retroactively and prospectively to ratify the validity of all electronic documents submitted to and accepted by a county recorder for recordation, whether or not such electronic documents were in strict compliance with the statutory or regulatory framework then in effect, and that all such filings be deemed to provide constructive notice.

Opposes legislation expanding the definition of sovereign beaches, public beaches or beach access rights over privately owned property without due process of law or compensation for taking of private property rights.

Supports enactment of F.S. § 732.4017 to confirm that alienation of homestead real estate by the property owner(s) is permissible as provided in Article X, Section 4(c) of the

Florida Constitution, and to provide guidance to the residents of Florida and the courts as to what types of alienations of homestead property are proper.

Supports amendment of F.S. § 655.934 to replace the term “durable family power of attorney” with “durable power of attorney”.

Supports requiring financial institutions to create a record memorializing any items removed from a safe deposit box, including amendment to F.S. § 655.935.

Supports 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.


Supports clarification of a person’s rights to direct disposition of his or her remains, providing guidance to courts and family members, especially when disputes arise, and absent specific directions, clarifying who is authorized to decide the place and manner of the disposition of a decedent’s remains, including an amendment replacing F.S. § 732.804.

As you know, legislative advocacy by sections must conform to Bylaw 2-7.5 of the Rules Regulating The Florida Bar which specifies that such activities by a section be clearly distinguished from the separate agenda of the Florida Bar.

And, for the benefit of all involved in Bar legislative activities, the Office of Governmental Affairs maintains a listing of individuals who might be directly lobbying legislators on any section position. Our listing includes the names of all “contacts” listed on your original Legislative Position Request Form as well as the section chair and legislative chair. However, if you anticipate legislative visits or appearances by persons other than those cited above, please advise us as soon as possible.

If you have any questions or need further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth May", written in a cursive style.

Elizabeth May
Administrative Assistant