

RPPTL Section Legislation Committee

Addendum to Memorandum

To: Cary Wright, Chair
Jon Scuderi, Chair-Elect
Sancha Brennan, Director, Probate & Trust Division
Steve Mezer, Director, Real Property Division

From: Dresden Brunner and Lee Weintraub, Co-Chairs

Date: May 24, 2026

Re: Section Legislative Positions 2024-2026 – as of May 2026

This Memorandum is an addendum to this Committee’s Memorandum dated October 16, 2025 (the "October Memorandum"), which made recommendations to the RPPTL Section Executive Council to re-adopt and re-approve certain legislative positions of the Section for the **2026-2028 legislative biennium**.

The October Memorandum addressed the Section's legislative positions as they existed at that time. In the ordinary course of the Section's legislative activities, the Section adopted a number of additional legislative positions subsequent to the date of the October Memorandum. This addendum supplements the October Memorandum to address those subsequently adopted positions and to confirm this Committee's complete recommendations for the 2026-2028 legislative biennium.

Attached is the complete list of the Section’s legislative positions for the 2024-2026 legislative biennium (the “Section’s Positions”), including those adopted subsequent to the October Memorandum. All legislative positions expire at the conclusion of each legislative biennium.

This Committee's recommendations set forth in the October Memorandum remain unchanged with respect to the relocation and removal of the specific Section’s Positions identified below. This Committee further recommends that all remaining Section's Positions—including those subsequently adopted positions not addressed in the October Memorandum—be re-adopted and re-approved for the 2026-2028 legislative biennium without modification.

Specifically:

1. Move Section position at item number 13 (d) from “Real Property / Property Rights” and renumber it as number 10 (d) and include under “Real Property / Foreclosures and Judicial Sales” where it is better suited:
 - d. *Supports proposed legislation expanding applicability of §697.07 (Assignment of Rents) and §702.10 (Order to Make Payments During Foreclosure) to third parties who acquire properties subject to a mortgage.*

2. Re-adopt and re-approve all of the legislative positions of the Section set forth on the enclosed list *except* the following three Section positions, which should be removed as the specific purpose of each has been completed:
 - 1 (f): “Probate, Trust & Guardianship / Estate Planning”
 - f. *Supports proposed legislation which would amend Section 117.201, Florida Statutes, to create a definition of “witness” (when used as a noun) for purposes of remote online notarization and witnessing of electronic documents.*

 - 4 (h): “Probate, Trust & Guardianship / Trust”
 - h. *Support revisions to the Florida Community Property Trust Act (Sections 736.1501, et al., of the Florida Statutes) to fix language in the definitional section of the Act which was inadvertently included during the bill drafting process for the original Act (Section 736.1502(1)); to clarify that the Act applies to express trusts created, amended, restated or modified after July 1, 2021 (Section 736.1502(2)); and to clarify that the transfer of homestead property to a Florida Community Property Trust is not a change in ownership for purposes of Chapter 193 and does not trigger a reassessment of the value of the property (new Section 736.151.(3))[sic]. [Added 9/20/2024]*

 - 13(c) “Real Property / Property Rights”
 - c. *Supports legislation to provide a statutory definition for Ejectment actions, provide for jurisdiction in the circuit courts for such actions, eliminate any ambiguity over whether pre-suit notice is required in such actions, and update the language in the existing Ejectment statute.*

Real Property, Probate and Trust Law Section

1. Probate, Trust & Guardianship / Estate Planning

- a. Opposes the expansion of classes that are to serve as agents under a power of attorney beyond the current class of individuals and financial institutions with trust powers.
- b. Supports legislation to provide for alienation of plan benefits under the Florida Retirement System (§121.131 and §121.091 Florida Statutes) Municipal Police Pensions (§185.25 Florida Statutes) and Firefighter Pensions (§175.241 Florida Statutes) in a dissolution proceeding and authorizing such alienation of benefits in a dissolution of marriage under §61.076 Florida Statutes.
- c. Supports legislation to (1) change the titles of 222.11 Florida Statutes to clearly reflect that this statute applies to earnings and is not limited to “wages” (2) provide an expanded definition of “earnings” because the term “wages” is not the exclusive method of compensation and (3) add deferred compensation to the exemption statute.
- d. Supports enactment of new Section 151 to the Florida Statutes to: (1) permit an owner of personal property to create a tenancy by the entireties by a direct transfer to the owner and owner's spouse, or a joint tenancy with right of survivorship by a direct transfer to the owner and another person or persons, without requiring an intermediate transfer through a strawman, (2) permit joint tenants to hold unequal shares or interests in personal property in a joint tenancy with right of survivorship while retaining the right of survivorship, (3) and facilitate proving the existence of tenancies by the entireties and joint tenancies with right of survivorship in personal property by codifying and clarifying existing common law evidentiary presumptions.
- e. Supports legislation to amend Stat. Sec 198.41 to render Chapter 198 (which imposes the Florida estate tax) ineffective for as long as there is no federal state death tax credit or no federal generation-skipping transfer tax credit allowable under the Internal Revenue Code of 1986, as amended.
- f. Supports proposed legislation which would amend Section 117.201, Florida Statutes, to create a definition of "witness" (when used as a noun) for purposes of remote online notarization and witnessing of electronic documents.
- g. Oppose any legislation which places unreasonable constraints on a natural person, in his or her individual or representative capacity, who is legally an adult and not adjudicated as incapacitated from entering into any agreement or

executing or effectuating any instrument, including, but not limited to those which convey real property or any interest therein and estate planning documents.

- h. Oppose any legislation which places unreasonable constraints on a natural person, in his or her individual or representative capacity, who is legally an adult and not adjudicated as incapacitated, from entering into any agreement or executing or effectuating any instrument, including, but not limited to those which convey real property or any interest therein and estate planning documents.
- i. Oppose proposed legislation, including without limitation HB 1475/SB 1338 (2026), that would alter or impair existing contract rights of donors or charitable organizations, limit or restrict a Florida community foundation's variance powers, or impose any new notification requirements on charitable organizations, unless safeguards are put in place which may include to protect existing contract rights of donors and charitable organizations, protect the charitable organization's ability to voluntarily provide a refund of donated funds, allow the donor to waive application of the law in whole or in part, protect the variance rights of Florida community foundations, provide charitable organizations with reasonable time under the relevant circumstances to notify donors if the charitable organization determines, as evidenced by the date of the board of directors meeting minutes, that it is unable to fulfill the terms of a written gift agreement and to offer a solution to the donor, and address potential conflicts with other existing Florida Statutes.

2. Probate, Trust & Guardianship / Guardianship & Advance Directives

- a. Supports legislation to amend the Baker Act to include a provision under which a guardian may request that the court grant the guardian the authority to involuntarily hospitalize a ward pursuant to the Baker Act.
- b. Opposes the adoption of summary guardianship proceedings outside the protections of Chapter 744, Florida Statutes.
- c. Opposes amendments to F.S. §393.12 that would (i) remove the existing requirement that a guardian advocate for a developmentally disabled adult must be represented by an attorney if the guardian advocate is delegated authority to manage property, (ii) remove the existing requirement that the petition to appoint a guardian advocate must disclose the identity of the proposed guardian advocate, and (iii) expand the list of individuals entitled to receive notice of the guardian advocate proceedings.
- d. Supports clarification of the definition of "income" for calculating Veterans guardianship fees, including an amendment to §744.604, Fla. Stat.

- e. Supports amendments to the Florida Guardianship Law to protect the interest of incapacitated persons, especially minor wards, by making settlements on their behalf confidential.
- f. Opposes the expansion of chapter 709 to include the authority of a parent to assign the custody and control of a minor child through a power of attorney unless proper procedural safeguards are included to assure the proper care and welfare of the minor children are included.
- g. Supports creation of new statutory procedures for the service of examining committee reports and deadlines for the service and filing of objections to such reports in incapacity proceedings, including revision to s. 744.331, F.S.
- h. Supports proposed legislation to recognize Physician Orders for Life Sustaining Treatment (POLST) or Patient Directed Doctor's Orders (PDDO's) under Florida law with appropriate protections to prevent violations of due process for the benefit of the citizens of Florida and the protection of medical professionals and emergency responders who withhold or withdraw treatment based upon POLST, including the amendment of ss. 395.1041, 400.142, 400.487, 400.605, 400.6095, 401.35, 401.45, 429.255, 429.73, 765.205, 456.072, and the creation of s.401.46, F.S.; and opposes efforts to adopt POLST (Physician Ordered Life Sustaining Treatment) or Patient Directed Doctor's Orders (PDDO's) in Florida without appropriate procedural safeguards to protect the wishes of patients and prior advance directives made by the patient.
- i. Opposes amendment to the Florida Constitution which would prevent removal of rights of a person based upon mental disability or mental incapacity unless appropriate safeguards to protect existing guardianship and mental health statutes are included and which would allow the legislature to establish laws which are intended to protect the welfare of the person and which comply with due process.
- j. Supports amendment to Florida Statutes §744.3701 to clarify existing law on the standard for court's ordering the production of confidential documents in guardianship proceedings and the parties who have the right to access confidential documents without court order.
- k. Supports amendment to Florida Statutes, including Florida Statutes § 744.331, amending the current statutory procedure for dismissal of a petition to determine incapacity to require a unanimous finding by the examining committee that a person is not incapacitated and creating a new statutory procedure which would allow for the presentation of additional evidence before a petition to determine

incapacity is dismissed in the event that there is a unanimous finding of the examining committee that a person is not incapacitated.

- I. Supports amendment to Florida Statutes, including Florida Statutes § 744.1097, to specifically address venue for the appointment of a guardian in minor guardianships proceedings.
- m. Opposes Florida's adoption of the Uniform Guardianship and Protective Proceedings Jurisdiction Act (including the Florida Guardianship and Protective Proceedings Jurisdiction Act) unless the act is substantially revised to provide for better due process protections for incapacitated individuals more consistent with Florida's laws and rewritten with vocabulary consistent with Florida's guardianship laws.
- n. Supports a revision to Florida's Guardianship Law through the proposed Florida Guardianship Code to modernize Florida's current guardianship laws in order to increase the protections for incapacitated individuals in Florida, to reduce the cost and expense associated with guardianship proceedings, to increase review and oversight of private and professional guardians, and to install procedural components to allow for remote proceedings in light of the recent pandemic.
- o. Supports legislation that provides for the continued rights of a ward to receive visitors and communicate with others when such contact would not be potentially harmful to the ward and oppose legislation that would:
 1. allow for jury trials in proceedings initiated under Chapter 744,
 2. allow for trials in proceedings related to contesting the validity of wills or revocable trusts prior to the death of the testator/settlor, except as otherwise provided by law,
 3. require the re-evaluation of wards without the filing of a suggestion of capacity or the exercise of the court's discretion,
 4. require a guardianship proceeding to be transferred to a new judge after the establishment of a guardianship without a substantive basis, or
 5. provide for a blanket requirement that any and all family members of the ward related by blood, marriage or adoption have access to guardianship inventories, accountings, or other financial information of the ward.
- p. Supports legislation that allows a petitioner to voluntarily dismiss a petition to determine incapacity prior to the entry of an order determining the alleged incapacitated person to be incapacitated regarding any right. Additionally, revise

Section 744.3031(4) to add the voluntary dismissal of a petition to determine incapacity as another triggering event to the expiration of an emergency temporary guardianship if an order has not been entered regarding any right.

- q. Supports legislation that specifically authorizes the court to remove a professional guardian when the professional guardian's registration has been suspended or revoked by the Office of Public and Professional Guardians.
- r. Oppose any legislation that allows a person who has been convicted of a felony to serve as a court appointed guardian unless the person has a significant family relationship with the ward and there are adequate restrictions and safeguards to ensure the safety of the ward and the adequate protection of the assets of the ward.

3. Probate, Trust & Guardianship / Probate

- a. Opposes any efforts to enact a statutory will.
- b. Opposes amendment to 733.302, F. S., to expand the class of non-residents which may serve as personal representative because of a concern that any addition to the class may subject the entire statute to a renewed constitutional challenge.
- c. 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 S. § 732.804.
- d. Supports proposed legislation allowing a testator to deposit their original will with the clerk's office for safekeeping during their lifetime, and for other custodians to deposit original wills with the clerk for safekeeping when the testator cannot be located.
- e. Opposes legislation that would permit remote notarization or remote witnessing of all estate and incapacity planning instruments and related spousal waivers (including electronic wills, powers of attorney, living wills, advance directives, and trust instruments having testamentary aspects), unless such legislation is amended: (a) to safeguard the citizens of Florida from fraud and exploitation; (b) to include protections to ensure the integrity, security, and authenticity of a remotely notarized or remotely witnessed instrument; and (c) to require witnesses be physically present when such documents are executed or other procedures to protect the citizens of Florida, particularly vulnerable adults and

the elderly who may have diminished mental capacity or be susceptible to fraud, undue influence, coercion, or duress.

- f. Opposes proposed legislation that would allow banks or other financial institutions in Florida to distribute funds from any account in the name of the decedent (with no pay- on- death or survivor designation) in the absence of an appropriate probate proceeding or other court proceeding, unless safeguards are put in place to protect the rights and interests of persons rightfully entitled to the proceeds, the constitutional rights of the decedent to direct the disposition of his or her property, and the rights of creditors to recover debts through a probate proceeding.
- g. Supports proposed legislation amending Section 733.610, Florida Statutes, by expanding the categories of entities and persons related to the personal representative for purposes of determining whether the personal representative, or someone sufficiently related to the personal representative for conflict purposes, hold a substantial beneficial or ownership interest that could create a conflict of interest when engaging in a sale, encumbrance, or other transaction.
- h. Supports proposed legislation relating to electronic wills and to the testamentary aspects of electronic revocable trusts, that retains the requirement that two subscribing witnesses sign in the physical presence of the testator and provides for protections to ensure the integrity, security, and authenticity of an electronically signed will or trust.
- i. Opposes amendments to the personal representative and trustee attorney fee compensation statutes contained in the Florida Probate Code and the Florida Trust Code unless the amendments preserve the policies currently reflected in each of those codes.
- j. Supports legislation clarifying existing Florida law by statutorily exempting title disputes arising under the Florida Uniform Disposition of Community Property Rights at Death Act ("Act") from Florida's probate creditor claims procedure; creating a new dispute resolution mechanism and 2-year statute of repose specifically designed for title disputes arising under the Act, and making narrowly focused modifications to the Act and other related provisions of the Florida Probate Code to reduce the risk of unintended forfeitures of the property rights the Act is intended to preserve.
- k. Opposes legislation that modifies or expands the role of curators or courts in probate administration proceedings unless such legislation is narrowly tailored to avoid conflicts with existing law, unnecessary probate filings, increased costs, or additional burdens on the court system.

- l. Oppose legislation that permits a person convicted of a felony to serve as a personal representative, unless the legislation includes adequate safeguards (such as formal notice to interested persons) and requires the court in its discretion to consider certain factors such as: a) whether the proposed personal representative is a family member; b) nature of the felony; c) whether the persons rights have been restored; d) amount of time since the conviction; e) whether the right to vote has been restored; f) whether the person was nominated in the will; and g) whether the decedent was the victim of the felony.
- m. Support proposed legislation to improve the efficiency and effectiveness of uncontested probate proceedings as recommended by the Workgroup on Uncontested Probate Proceedings, including SB 1500 / HB 1337 (2026).

4. Probate, Trust & Guardianship / Trust

- a. Opposes legislation abrogating a trustee's duties of loyalty and duties of full and fair disclosure in connection with affiliated investments by a corporate trustee.
- b. Supports proposed amendments to F.S. Chapter 736, which provide much needed clarification and guidance regarding the applicability of constitutional devise restrictions and exemption from creditors' claims provisions, as well as the timing and method of passage of title to homestead real property, when that homestead real property is devised through a revocable trust at the time of a settlor's death, including amendment to F.S. §736.0103, the creation of F.S. §736.0508, and the creation of F.S. §736.08115.
- c. Supports proposed legislation which would amend s. 736.0708(1), F.S., to provide that when multiple trustees serve together as cotrustees, each cotrustee is entitled to reasonable compensation and that the aggregate compensation charged by all the trustees may be greater than reasonable compensation for a single trustee.
- d. Supports proposed amendments to ss. 736.08135(3) and 736.1008(3), F.S., to clarify the duty of a Trustee to account to the qualified beneficiaries of a trust and the form and content of a trust accounting prepared on or after July 1, 2017, and to clarify that the period for which qualified beneficiaries can seek trust accountings.
- e. Supports proposed legislation to update Florida's Uniform Principal and Income Act, which generally follows the new Uniform Fiduciary Income and Principal Act, in order to achieve greater consistency among state laws, but including certain modifications that reflect Florida public policy choices.

- f. Supports providing the circumstances under which ademption by satisfaction applies to revocable trusts.
- g. Supports revision of Section 736.04117 to clarify that the authorized trustee of the first trust will not be treated as the settlor of the second trust when applying s.736.04117, F.S. to the second trust; to expressly state that the trustee's power under the statute can be exercised by modifying the terms of the first trust; to clarify that notice of a proposed decanting is not a trust disclosure document; to clarify that the statute applies to all trusts governed by Florida law or that have a principal place of administration in Florida.
- h. Support revisions to the Florida Community Property Trust Act(Sections 736.1501, et al., of the Florida Statutes) to fix language in the definitional section of the Act which was inadvertently included during the bill drafting process for the original Act (Section 736.1502(1)); to clarify that the Act applies to express trusts created, amended, restated or modified after July 1, 2021 (Section 736.1502(2)); and to clarify that the transfer of homestead property to a Florida Community Property Trust is not a change in ownership for purposes of Chapter 193 and does not trigger a reassessment of the value of the property (new Section 736.151.(3)).
- i. Supports legislation that bars the ability of a successor fiduciary to bring a claim or action against a former trustee when the beneficiaries are barred from bringing such claim or action.
- j. Supports legislation creating a summary process allowing a trustee discharge in non-adversarial trust administrations without the need for judicial process.

5. Probate, Trust & Guardianship / Miscellaneous

- a. Opposes the amendment of Ch. 726, F.S., by replacing the Uniform Fraudulent Transfer Act with the Uniform Voidable Transactions Act (the "UVTA") unless changes are made to protect the rights of Florida citizens to engage in certain sound and legitimate business, estate, and tax planning techniques and transactions which are currently permitted under Florida law; which do not hinder, delay or defraud creditors; and which do not enhance or diminish the utilization of self-settled spendthrift trusts or single- member limited liability companies by Florida citizens.

6. Real Property / Condominiums and Planned Developments

- a. Supports amendments to Chapter 718, Florida Statutes, Condominiums, and Chapter 719 Florida Statutes, Cooperatives, to require that engineers, architects

and other design professionals and manufacturers warrant the fitness of the work they perform on condominiums or cooperatives.

- b. Opposes amendments to Chapter 720, F.S., that would require both pre-suit mediation and pre-suit arbitration before filing a civil action over homeowners' association disputes.
- c. Supports legislation providing for electrical elements to three-year warranty, extend subcontractor and supplier warranties to the contractor and to clarify start date for five-year warranty deadline set forth in F.S. §718.203(1)(e).
- d. Supports clarification of Ch 718, F.S.: to confirm that certain operational provisions do not apply to nonresidential condominium associations; to define "nonresidential condominiums;" to clarify that the Division's arbitration program only pertains to residential condominiums; to provide an effective date.
- e. Supports legislation to remove the requirement that statutory late fees must be set forth in a condominium or homeowners' association declaration or bylaws in order for those charges to be imposed, to allow for the collection of such fees by all condominium and homeowner associations, including amendments to F.S. §§718.116 & 718.3085.
- f. Supports legislation to differentiate the administration of nonresidential condominiums from residential condominiums and to eliminate for nonresidential condominium associations certain provisions not appropriate in a commercial setting, including amendments to F.S. Ch. 718.
- g. Opposes legislation that changes the definition of the practice of law to exclude from the definition a community association manager's interpretation of documents or statutes that govern a community association, determination of title to real property, or completion of documents that require interpretation of statutes or the documents that govern a community association, including opposition to SB1466, SB1496, HB7037 and CS/HB7039 (2014).
- h. Supports amending Florida Condominium law pertaining to the termination of condominiums to protect unit owners and provide certainty and predictability to the process.
- i. Opposes creation of criminal penalties for violations of statutes pertaining to condominium association official records and condominium association elections, as well as any change to create criminal penalties for any violation of the Florida Condominium Act for which a criminal penalty does not already exist, including

changes to §718.111(12) F.S., and creation of new statutory provisions within Ch. 718 F.S., or otherwise.

- j. Supports replacing mandatory presuit arbitration with the Division of Condominiums for certain disputes between a condominium association and unit owner with mandatory presuit private mediation, including a change to Fla. Stat. 34.01, 718.013, 718.112, 718.117, 718.1255, 718.303, 720.303, 720.306 and 720.311.
- k. Opposes continuing to allow fines in excess of \$1,000 in homeowner associations to become liens for non-monetary damages against the parcel that can be foreclosed, including a change to Fla. Stat. 720.305(2).
- l. Supports legislation to clarify that a condominium association has the right to represent its unit owner members in a class action defense, including when an association challenges ad valorem assessments on behalf of its unit owner members to the value adjustment board, and the property appraiser subsequently appeals the VAB's decision to increase owners' taxes. In such instance, the association may represent its unit owner members as a group pursuant to F.R.C.P. 1.221 and Florida Statutes §718.111(3).
- m. Supports legislation amending Section 718.113 and Section 718.115 to clarify and enhance the ability of condominium associations and condominium unit owners to use hurricane shutters and other types of hurricane protection to protect condominium property, association property and the personal property of unit owners, and reduce insurance costs for condominium associations and unit owners.
- n. Supports legislation resolving technical inconsistencies and errors within Chapters 718 and 720, Florida Statutes, that have arisen due to multiple revisions of the Chapters and to provide additional clarification as to how Chapters 718 and 720 are to be applied.
- o. Supports legislation permitting condominium unit owners to "finance" special assessments in the form of a payment plan with interest.
- p. Supports legislation authorizing community associations to borrow money or levy special assessments notwithstanding any requirement for membership approval in furtherance of the association's performance of necessary maintenance, repairs and replacements, including capital replacements.
- q. Supports legislation allowing any association that must obtain a Structural Integrity Reserve Study (SIRS) to utilize an alternative funding method which (i)

may reasonably be expected to fully satisfy the association's reserve funding obligations and (ii) is approved by the Division.

- r. Supports modifications to the Condominium Act, Chapter 718, to make applicable to non-residential condominiums some of the provisions provided in the Act that apply to residential condominiums.
- s. Supports legislation to revise director elections and recall procedures in community associations and authorize execution of certain documents by electronic means.
- t. Supports changes to condominium and homeowners statutes to clarify confusion and address criminal penalties for administrative acts.
- u. Opposes any legislation imposing mandatory, universal "Kaufman Language" on community associations subject to Chapters 718, 719, or 720, Florida Statutes; opposes any legislation requiring community associations subject to Chapters 718, 719, or 720, Florida Statutes to amend their governing documents to adopt universal "Kaufman Language". Opposes any legislation requiring any governing document of a newly created community association subject to Chapters 718, 719, or 720, Florida Statutes to contain universal "Kaufman Language" as a condition of approval of the governing document.

7. Real Property / Contracts and Disclosures

- a. Opposes legislation requiring multiple disclosures by sellers of real property, creating contract rescission rights for buyers and seller liability for damages.
- b. Opposes legislation requiring parties to record notices, warnings or reports regarding the physical condition of land or improvements in the public records regarding the title to real property.

8. Real Property / Corporations and LLCs

- a. Opposes legislation requiring a Florida corporation or limited liability company to publish notice of its proposed sale of assets other than in regular course of business, or to publish notice of dissolution, including changes to F.S. §607.1202 and §608.4262.

9. Real Property / Courts

- a. Oppose the creation of "pilot" court divisions without funding, evaluation criteria, rules of procedure, and competency criteria for magistrates without consideration for current alternate dispute resolution processes.

- b. Supports procedures to preserve due process by providing courts with authority to appoint attorney, administrator and guardian ad litem to serve on behalf of known persons, or unknown persons, having claims by, though, under or against a person who is deceased or whose status is unknown, and confirming the sufficiency of prior proceedings in which ad litem have been appointed, including amendment of F.S. §49.021.
- c. Oppose any legislation which, absent an order from a Court having jurisdiction over the matter, delays or prohibits the Clerks of Court from recording an instrument which conveys real property or an interest therein.

10. Real Property / Foreclosures and Judicial Sales

- a. Oppose legislation which would require a foreclosing creditor to notify the debtor that filing a bankruptcy petition before the foreclosure sale may permit the debtor to retain the property and reorganize the indebtedness.
- b. 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.
- c. Supports legislation that will expand the finality of foreclosure judgments provided by §702.036 Fla. Stat. (2021) to include liens other than mortgage foreclosures, such as community association liens and construction liens.

11. Real Property / Liens and Encumbrances

- a. Opposes efforts to create a lien on real property for work that does not add value to the property, and would permit liens against the property of a person other than the party owing a debt.
- b. 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 liens.
- c. Supports amendments: to s. 95.11(2) and (5), F.S., as to the statute of limitations for actions on payment bonds; to s. 713.08(3) (the statutory form for a claim of lien) to include the separate statement required by F.S. 713.08(1)(c); to s. s. 713.13, F.S. to delete the requirement that the notice of commencement be verified and to clarify the timing of the expiration date of the notice of

commencement; to s. 713.18, F.S. as to electronic confirmation of delivery through the U.S. Postal Service.

- d. Supports amendment of: F.S. §713.10(2)(b) to provide that a blanket notice recorded by a landlord remains valid and the landlord's property interest will not be liable for liens arising from tenant improvements even if the leases contain different versions of the lien prohibition language or no lien prohibition language at all, under certain circumstances; and F.S. §713.10(3) to require inclusion of specific language in any claim of lien premised on a landlord's failure to comply so as to provide record notice of the basis of such a claim by a lienor, and to provide that any lien will not take effect as to third parties without notice until 30 days after the recording of the claim of lien.
- e. Opposes selective increase of recording expense to only construction claims of lien, adding additional filing requirements, and concluding that filing a lien beyond the statutory 90-day period is an act of fraud, including opposing amendments to F.S. §§28.24 & 713.08.
- f. Supports the passage of an amendment to existing s. 713.132(3), F.S. to allow termination of a notice of commencement, provided for under s. 713.135, F.S., at any time whether or not construction has ceased as required under existing law.
- g. Supports proposed legislation to: (1) clarify that the interest of a lessor is not subject to improvements made by the lessee of a mobile home lot in s. 713.10, F.S.; and (2) eliminate ambiguity regarding whether the expiration date on a notice of commencement may be less than one year from the date of recording, including an amendment to s.713.13, F.S.
- h. Supports legislative changes to construction lien law in the state of Florida, including changes to Fla. Stat. Ch. 255 and 713.
- i. Opposes legislation which removes lien rights from all entities other than the contractor as long as the owner pays the contractor, even if the contractor doesn't pay its downstream lienors, unless the bill is modified to provide a balanced approach that is more fair to all parties.
- j. Supports clarification of homestead laws to make clear that a lessee owning a leasehold interest of 98 years or more may still claim homestead even if the leasehold interest terminates upon his or her death.

12. Real Property / Miscellaneous

- a. Opposes abolishment of causes of action for architect, engineer, surveyor and mapper professional negligence and other professional breaches of duty.

- b. Opposes legislation authorizing the use of security deposit replacement products (aka fees in lieu of security deposits) unless such legislation includes consumer protection provisions that safeguard tenants from predatory practices.
- c. Supports revisions to section 95.11(3)(b), Florida Statutes (2023) establishing the statutes of limitations and repose for design and construction defect actions, to add statutory triggers for when the statutes begin to run.
- d. Oppose any legislation which sets unreasonable requirements for the witnesses to any instrument that conveys real property or an interest therein.

13. Real Property / Property Rights

- a. Opposes any legislation limiting property owners' rights or limiting attorneys' fees in condemnation proceedings.
- b. 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.
- c. Supports legislation to provide a statutory definition for Ejectment actions, provide for jurisdiction in the circuit courts for such actions, eliminate any ambiguity over whether pre-suit notice is required in such actions, and update the language in the existing Ejectment statute.
- d. Supports proposed legislation expanding applicability of §697.07 (Assignment of Rents) and §702.10 (Order to Make Payments During Foreclosure) to third parties who acquire properties subject to a mortgage.

14. Real Property / Recording

- a. Opposes legislation that impairs the integrity of the recording system in the State of Florida.

15. Real Property / Title Insurance

- a. Opposes any portion of the National Association of Insurance Commissioners Title Insurers Model Act and Title Insurance Agent Model Act that may adversely affect Florida attorneys' ability to participate in real estate closing and the issuance of title insurance.
- b. Opposes adoption of a "file and use" system for the determination of title insurance rates in the State of Florida, supplanting a promulgated rate system in which the state regulatory agency determines rates based on actuarial analysis of statutorily determined criteria.

- c. Opposes elimination of the requirement that title insurance agencies deposit securities having a value of \$35,000 or a bond in that amount for the benefit of any title insurer damaged by an agency's violation of its contract with the insurer.