

REAL PROPERTY, PROBATE & TRUST LAW SECTION
www.rpptl.org



Executive Council Meeting

AGENDA

**Naples Grande Beach Resort
Naples, Florida**

**Saturday, November 15, 2014
9:00 a.m. - 12:00 noon**

BRING THIS AGENDA TO THE MEETING

Real Property, Probate and Trust Law Section
Executive Council Meeting
November 15, 2014

Naples Grande Beach Resort, Naples, Florida

AGENDA

I. **Presiding** — *Michael A. Dribin, Chair*

II. **Attendance** — *Debra Boje, Secretary*

III. **Minutes of Previous Meeting** — Andrew M. O'Malley, *Acting Secretary*

Motion to approve minutes of September 20, 2014 meeting of Executive Council held at Loyola University of Chicago School of Law, Chicago, Illinois. **pp. 10-28**

IV. **Chair's Report** — *Michael A. Dribin*

1. Introduction and comments from sponsor of Executive Council lunch (The Florida Bar Foundation)
2. Acknowledgment of Section sponsors. **pp. 29-31**
3. Remaining 2014 – 2015 RPPTL Section Executive Council Meeting Schedule. **p. 32**
4. Tentative Committee meeting schedule for March 19-21, 2015 Executive Council meeting, Ritz Carlton Grande Lakes, Orlando, Florida. **pp. 33-36**
5. Remembering John Arthur Jones and presentation of Section resolution. **pp. 37-39**

V. **Chair-Elect's Report** — *Michael J. Gelfand, Chair-Elect*, **pp.122-123**

VI. **Liaison with Board of Governors' Report** — *Andrew B. Sasso*

VII. **Treasurer's Report** — *S. Katherine Frazier*

Statement of Current Financial Conditions. **p. 40**

VIII. **Director of At-Large Members' Report** — *Shane Kelley*

IX. **CLE Seminar Coordination Report** — CLE Seminar Coordination – Tae Kelley Bronner (Probate & Trust), Robert Swaine (Real Property) Co-Chairs

X. **Kids Committee Report** – Steven Goodall, Chair; Laura Sundberg, Advisor

XI. Real Property Law Division — Andrew M. O'Malley, Real Property Law Division Director

Action Item:

1. Condominium and Planned Development Committee --- Steven H. Mezer, Chair

Committee motion to: (A) approve legislative positions amending F.S. Section 718.117, regarding termination of condominium status so as to: (1) provide protection for residential condominium unit owners who have homesteaded their units and are current in their related monetary obligations; (2) assure the option to rent after termination and to provide minimum compensation based on purchase price and fair market value; (3) create a requirement of review of the termination plan by the Division of Land Sales for statutory compliance; (4) clarify procedural and substantive elements of optional termination and clarify the role of the termination trustee; (5) amend procedural aspects of F.S. Section 718.1265 regarding termination of condominium status after a natural disaster; and, (6) provide an effective date; and, (B) find that such legislative positions are within the purview of the RPPTL Section*. **pp. 41-60**

***If the proposed legislative positions are approved by the Executive Council, an additional committee motion will be presented seeking authorization for the RPPTL Section to expend Section funds in support of the proposed legislation.**

Information Items:

1. Real Property Litigation Committee --- Susan K. Spurgeon, Chair

Report on study of possible revisions to (i) the Florida Evidence Code (F.S. 90) concerning requirement of filing certified copies of documents; (ii) F.S. 95.281, the Statute of Repose; and (iii) F.S. 56.29, Proceedings Supplementary.

2. Residential Real Estate & Industry Liaison Committee --- Salome J. Zikakis, Chair

Report on formation of task force with Commercial Real Estate Committee and Title Insurance & Industry Liaison Committee to review the impact of the ALTA Best Practices Program on attorney settlement agents, both residential and commercial, so as to keep Section members informed and address potential issues.

XII. Probate and Trust Law Division — Deborah P. Goodall, Director

Action Item

1. Estate and Trust Tax Planning Committee — Elaine M. Bucher, Chair

Committee motion to: (A) adopt as legislative positions of the Section amendments to F.S. §§710.105, 710.111 and 710.123; Chapter 710, Florida Statutes (“Transfers to Minors”) so as to permit a donor or a holder of a power of appointment created as a Uniform Transfer to Minor to provide in the instrument creating the transfer that the custodial relationship does not terminate until the minor attains the age of age 25; and, (B) find that such legislative positions are within the purview of the RPPTL Section*.

pp. 61-69

***If the proposed legislative positions are approved by the Executive Council, an additional committee motion will be presented seeking authorization for the RPPTL Section to expend Section funds in support of the proposed legislative positions.**

XIII. General Standing Committees — Michael J. Gelfand, General Standing Division Chair and Chair-Elect

Action Item:

1. Budget Committee --- S. Katherine Frazier, Treasurer, Chair

Motion to approve the proposed RPPTL Budget for fiscal year 2015-2016. **pp. 70-76**

Information Item:

1. Integrity Awareness and Coordination Committee --- Jerry Aron, Co-Chair; Sandra Diamond, Co-Chair

Presentation of Preliminary Report and recommended bylaws changes. **pp. 77-95**

2. Professionalism and Ethics --- Lawrence Miller, Chair

A. Report on proposed amendment to Comment on *Rules Regulating The Florida Bar, Rule 4-4.2*, “Communication with Person Represented by Counsel”.

B. Ethics Data Base Update.

3. Same Sex Marriage Implications Ad Hoc Committee --- Jeffrey Ross Dollinger, Co-Chair (Real Property); George Daniel Karibjanian, Co-Chair (Probate & Trust)

Report as to status of committee deliberations

4. **Amicus Coordination** – *Robert W. Goldman, John W. Little, III, Kenneth B. Bell and Gerald B. Cope, Jr., Co-Chairs*

Report of the filing of an *amicus curiae* brief in the Supreme Court of Florida, SC13-2536, reviewing *Golden v. Jones*, 126 So. 3d 390 (Fla. 4th DCA, 2013). RPPTL *Amicus Curiae* Brief attached, pp. 96-120

XIV. Real Property Law Division Reports — Andrew M. O'Malley, *Director*

1. **Commercial Real Estate** – Art Menor, Chair; Burt Bruton and Adele Stone, Co- Vice Chairs.
2. **Condominium and Planned Development** – Steven H. Mezer, Chair; Christopher Davies and Alex Dobrev, Co-Vice Chairs.
3. **Construction Law** – Hardy Roberts, Chair; Scott Pence and Lee Weintraub, Co-Vice Chairs.
4. **Construction Law Certification Review Course** – Deborah Mastin and Bryan Rendzio, Co-Chairs; Melinda Gentile, Vice Chair.
5. **Construction Law Institute** – Reese Henderson, Chair; Sanjay Kurian, Diane Perera and Jason Quintero, Co-Vice Chairs.
6. **Development & Land Use Planning** – Vinette Godelia, Chair; Mike Bedke and Neil Shoter, Co-Vice Chairs.
7. **Foreclosure Reform (Ad Hoc)** - Jeffrey Sauer, Chair; Mark Brown, Burt Bruton and Alan Fields, Co-Vice Chairs.
8. **Landlord and Tenant** – Lloyd Granet, Chair; Rick Eckhard and Brenda Ezell, Co-Vice Chairs.
9. **Legal Opinions** – Kip Thornton, Chair; Robert Stern, Vice-Chair.
10. **Liaisons with FLTA** – Norwood Gay and Alan McCall, Co-Chairs; Alexandra Overhoff and James C. Russick, Co-Vice Chairs.
11. **Insurance & Surety** – W. Cary Wright and Fred Dudley, Co-Chairs; Scott Pence and Michael Meyer, Co-Vice Chairs.
12. **Real Estate Certification Review Course** – Jennifer Tobin, Chair; Manual Farach and Martin Awerbach, Co-Vice Chairs.
13. **Real Estate Structures and Taxation** – Cristin C. Keane, Chair; Michael Bedke and Deborah Boyd, Co-Vice Chairs.
14. **Real Property Finance & Lending** – Jim Robbins, Chair; Homer Duval, III, Richard S. McIver and Bill Sklar, Co-Vice Chairs.

15. **Real Property Litigation** – Susan Spurgeon, Chair; Manny Farach, Vice Chair.
16. **Real Property Problems Study** – W. Theodore “Ted” Conner, Chair; Mark A. Brown, Jeff Dollinger, Stacy Kalmanson and Patricia J. Hancock, Co-Vice Chairs.
17. **Residential Real Estate and Industry Liaison** – Salome Zikakas, Chair; Trey Goldman and Nishad Khan, Co-Vice Chairs.
18. **Title Insurance and Title Insurance Liaison** – Raul Ballaga, Chair; Alan Fields and Brian Hoffman, Co-Vice Chairs.
19. **Title Issues and Standards** – Christopher W. Smart, Chair; Robert M. Graham, Brian Hoffman and Karla J. Staker, Co-Vice Chairs.

XV. Probate and Trust Law Division Committee Reports — *Deborah P. Goodall, Director*

1. **Ad Hoc Guardianship Law Revision Committee** – David Brennan, Chair; Sancha Brennan Whynot, Hung Nguyen and Charles F. Robinson, Co-Vice Chairs
2. **Ad Hoc Study Committee on Estate Planning Conflict of Interest** - William T. Hennessey III, Chair; Paul Roman, Vice Chair
3. **Ad Hoc Study Committee on Jurisdiction and Service of Process** – Barry F. Spivey, Chair; Sean W. Kelley and Christopher Q. Wintter, Co-Vice Chairs
4. **Ad Hoc Study Committee on Personal Representative Issues** – Jack A. Falk, Jr., Chair
5. **Ad Hoc Study Committee on Spendthrift Trust Issues** – Lauren Detzel and Jon Scuderi, Co-Chairs
6. **Asset Protection** – Brian C. Sparks, Chair; George Karibjanian, Vice-Chair
7. **Attorney/Trust Officer Liaison Conference** – Laura K. Sundberg, Chair; Stacey Cole, Co-Vice Chair (Corporate Fiduciary) and Deborah Russell Co-Vice Chair
8. **Digital Assets and Information Study Committee** – Eric Virgil, Chair; Travis Hayes and S. Dresden Brunner, Co-Vice Chairs
9. **Elective Share Review Committee** – Lauren Detzel and Charles I. Nash, Co-Chairs; Robert Lee McElroy IV, Vice-Chair
10. **Estate and Trust Tax Planning** – Elaine M. Bucher, Chair; David Akins, Tasha Pepper-Dickinson and William Lane, Co-Vice Chairs
11. **Guardianship, Power of Attorney and Advanced Directives** – Hung Nguyen, Chair, Tattiana Brenes-Stahl, David Brennan and Eric Virgil, Co-Vice Chairs

12. **IRA, Insurance and Employee Benefits** – L. Howard Payne and Lester Law, Co-Chairs
13. **Liaisons with ACTEC** – Michael Simon, Bruce Stone, and Diana S.C. Zeydel
14. **Liaisons with Elder Law Section** – Charles F. Robinson and Marjorie Wolasky
15. **Liaisons with Tax Section** – Harris L. Bonnette, Jr., Lauren Y. Detzel, William R. Lane, Jr., Brian C. Sparks and Donald R. Tescher
16. **Principal and Income** – Edward F. Koren, Chair; Pamela Price, Vice Chair
17. **Probate and Trust Litigation** – Thomas M. Karr, Chair; John Richard Caskey, James George, Jon Scuderi and Jerry Wells, Co-Vice Chairs
18. **Probate Law and Procedure** – John C. Moran, Chair; Sarah S. Butters, Michael Travis Hayes and Sean Kelley, Co-Vice Chairs
19. **Trust Law** – Angela M. Adams, Chair; Tami F. Conetta, Jack A. Falk and Deborah Russell, Co-Vice Chairs
20. **Wills, Trusts and Estates Certification Review Course** – **Richard R. Gans**, Chair; Jeffrey S. Goethe, Linda S. Griffin, Seth Marmor and Jerome L. Wolf, Co-Vice Chairs

XVI. General Standing Committee Reports — *Michael J. Gelfand, Director and Chair-Elect*

1. **Ad Hoc Leadership Academy** – Tae Kelley Bronner and Kris Fernandez, Co-Chairs
2. **Ad Hoc Study Committee on Same Sex Marriage Issues**— Jeffrey Ross Dollinger and George Daniel Karibjanian, Co-Chairs
3. **Ad Hoc Trust Account** – John B. Neukamm and Jerry E. Aron, Co-Chairs
4. **Amicus Coordination** – Robert W. Goldman, John W. Little, III, Kenneth B. Bell and Gerald B. Cope, Jr., Co-Chairs
5. **Budget** – S. Katherine Frazier, Chair; Andrew M. O'Malley, Pamela O. Price, Daniel L. DeCubellis, Lee Weintraub and W. Cary Wright, Co-Vice Chairs
6. **CLE Seminar Coordination** – Robert S. Swaine and Tae Kelley Bronner, Co-Chairs; Laura K. Sundberg (Probate & Trust), Sarah S. Butters (Probate & Trust), Lawrence J. Miller (Ethics), Jennifer S. Tobin (Real Property) and Hardy L. Roberts, III (General E-CLE), Co-Vice Chairs. **p. 121**
7. **Convention Coordination** – Laura K. Sundberg and Stuart Altman, Co-Chairs; Marsha G. Madorsky, Raul Ballaga and Jennifer Jones, Co-Vice Chairs

8. **Fellows** – Brenda B. Ezell and Hung V. Nguyen, Co-Chairs; Benjamin Diamond and Ashley McCrae, Co-Vice Chairs
9. **Florida Electronic Filing & Service** – Rohan Kelley, Chair
10. **Homestead Issues Study** – Shane Kelley (Probate & Trust) and Patricia P. Jones (Real Property), Co-Chairs; J. Michael Swaine and Charles Nash, Co-Vice Chairs
11. **Legislation** – William T. Hennessey, III (Probate & Trust) and Robert S. Freedman (Real Property), Co-Chairs; Sarah S. Butters (Probate & Trust), and Alan B. Fields and Steven Mezer (Real Property), Co-Vice Chairs
12. **Legislative Update (2014)** – Stuart H. Altman, Chair; Charles I. Nash, R. James Robbins, Barry F. Spivey, Stacy O. Kalmanson, and Jennifer S. Tobin, Co-Vice Chairs
13. **Legislative Update (2015)** – R. James Robbins, Chair; Charles I. Nash, Barry F. Spivey, Stacy O. Kalmanson and Jennifer S. Tobin, Co-Vice Chairs
14. **Liaison with:**
 - a. **American Bar Association (ABA)** – Edward F. Koren and Julius J. Zschau
 - b. **Board of Legal Specialization and Education (BLSE)** – Raul P. Ballaga, Jennifer S. Tobin, William Cary Wright, and Richard Gans
 - c. **Clerks of Circuit Court** – Laird A. Lile and William Theodore (Ted) Conner
 - d. **FLEA / FLSSI** – David C. Brennan and Roland “Chip” Waller Co-Vice Chairs
 - e. **Florida Bankers Association** – Mark T. Middlebrook
 - f. **Judiciary** – Judge Linda R. Allan, Judge Jack St. Arnold, Judge Herbert J. Baumann, Judge Melvin B. Grossman, Judge Hugh D. Hayes, Judge Claudia Rickert Isom, Judge Maria M. Korvick, Judge Lauren Laughlin, Judge Norma S. Lindsey, Judge Celeste H. Muir, Judge Robert Pleus, Jr., Judge Walter L. Schafer, Jr., Judge Morris Silberman, Judge Richard J. Suarez, and Judge Patricia V. Thomas
 - g. **Out of State Members** – Michael P. Stafford, John E. Fitzgerald, Jr., and Nicole Kibert
 - h. **TFB Board of Governors** – Andrew Sasso
 - i. **TFB Business Law Section** – Gwynne A. Young
 - j. **TFB CLE Committee** – Robert S. Freedman and Tae Kelley Bronner
 - k. **TFB Council of Sections** – Michael A. Dribin and Michael J. Gelfand
 - l. **TFB Pro Bono Committee** – Tasha K. Pepper-Dickinson
15. **Long-Range Planning** – Michael J. Gelfand, Chair
16. **Meetings Planning** – George J. Meyer, Chair
17. **Member Communications and Information Technology** – William A. Parady, Chair; S. Dresden Brunner, Michael Travis Hayes, and Tattiana Brenes-Stahl, Co-Vice Chairs
18. **Membership and Inclusion** – Lynwood F. Arnold, Jr. and Jason M. Ellison, Co-Chairs, Phillip A. Baumann, (Career Coaching), Navin R. Pasem (Diversity), and Guy S. Emerich (Career Coaching and Liaison to TFB’s Scope Program), Co-Vice Chairs
19. **Model and Uniform Acts** – Bruce M. Stone and S. Katherine Frazier, Co-Chairs
20. **Professionalism and Ethics--General** – Lawrence J. Miller, Chair; Tasha K. Pepper-

Dickinson, Vice Chair

21. **Professionalism and Ethics—Special Subcommittee on Integrity Awareness and Coordination** – Jerry Aron and Sandra Diamond, Co-Chairs
22. **Publications (ActionLine)** – Silvia B. Rojas, Chair (Editor in Chief); Shari Ben Moussa (Advertising Coordinator), Navin R. Pasem (Real Property Case Review), Jane L. Cornett, (Features Editor), Brian M. Malec (Probate & Trust), George D. Karibjanian (Editor, National Reports), Lawrence J. Miller (Editor, Professionalism & Ethics), Arlene Udick and Lee Weintraub, Co-Vice Chairs
23. **Publications (Florida Bar Journal)** – Kristen M. Lynch (Probate & Trust), and David R. Brittain (Real Property), Co-Chairs; Jeffrey S. Goethe (Editorial Board – Probate & Trust), Linda Griffin (Editorial Board – Probate & Trust), Michael A. Bedke (Editorial Board – Real Property) and William T. Conner (Editorial Board – Real Property), Co-Vice Chairs
24. **Sponsor Coordination** –Wilhelmena F. Kightlinger, Chair; J. Michael Swaine, Deborah L. Russell, W. Cary Wright, Benjamin F. Diamond, John Cole, Co-Vice Chairs
25. **Strategic Planning** –Michael A. Dribin and Michael J. Gelfand, Co-Chairs

XVII. Adjourn

**MINUTES OF THE FLORIDA BAR'S
REAL PROPERTY, PROBATE AND TRUST LAW SECTION**

EXECUTIVE COUNCIL MEETING

September 20, 2014

**Loyola University Law School Ceremonial Courtroom – Chicago,
Illinois**

I. Call to Order - *Michael A. Dribin, Chair*

The Florida Bar's Real Property, Probate and Trust Law Section's Executive Council meeting at the Loyola University Law School's Ceremonial Courtroom was called to order by Mr. Michael A. Dribin at 9:30am. Mr. Dribin thanked the faculty and staff of the law school for being exceptionally accommodating both in hosting the executive council meeting and participating in the CLE segment that will follow the meeting. Mr. Dribin introduced the Associate Dean of the Law School, James Faught who welcomed the members to Chicago.

II. Minutes of Previous Meeting — *Debra Boje, Secretary*

Mr. Dribin, acting on behalf of section Secretary, Debra Boje, moved:

To approve minutes of August 2, 2014 meeting of Executive Council held at the Breakers, Palm Beach, Florida.

The Motion was approved unanimously.

III. Chair's Report — *Michael A. Dribin, Chair*

Mr. Dribin thanked Robert Swaine, Robert Freedman and Tae Kelly Bronner for arranging the CLE program to follow the Executive Council Meeting. Mr. Dribin recognized the out of state Section members in attendance. Mr. Dribin then recognized the President of the Florida Bar, Greg Coleman, who was in attendance.

The following sponsors of the Chicago meeting were recognized and thanked for their support:

BMO Private Bank

Iberia Bank

Old Republic National Title Insurance Company

SRR Global Financial Advisory Services

Action item – Mr. Dribin noted the passing of Past Section Chair Arthur Jones and stated that a formal remembrance would take place at the next Executive Council Meeting in Naples. Mr. Dribin then requested a motion to approve the RPPTL Section resolution included at Pages 46-47 of the Agenda in

memory of John Arthur Jones. The motion was made, seconded and approved unanimously.

[Secretary's Note: the following items were presented out of order later in the meeting but are reported in these minutes as part of the chair's report]

Mr. Dribin expressed thanks to Section Administrator Mary Obos, not only for her efforts in planning the Chicago meeting, but for her performance generally.

Mr. Dribin then introduced the Section's legislative consultant, Peter Dunbar who briefly reported on legislation of interest to the Section in the 2015 session including the tax apportionment package and bills concerning digital assets, guardianship, decedent's remains, condominium bulk buyers, condominium termination and high rise property appraisals in Miami-Dade County.

IV. Chair-Elect's Report — *Michael J. Gelfand*

Mr. Michael J. Gelfand noted there was no report.

V. Treasurer's Report — *S. Katherine Frazier*

Ms. S. Katherine Frazier noted there was no report.

VI. Probate and Trust Law Division — *Deborah P. Goodall, Director*

Ms. Deborah P. Goodall noted there was no report

VII. Real Property Law Division — *Andrew M. O'Malley, Real Property Law Division Director*

Information item Real Property Litigation Committee — Mr. Manny Farach reported on the J. Milton Dadeland, LLC, 2014 WL 3735142 (Fla. 3d DCA, July 30, 2014) decision in which the Court held that a commercial real estate broker retained the right to file a lien against the real estate that was the subject of the listing agreement for unpaid commissions providing the listing agreement allows such lien rights. The Court found that the Commercial Real Estate Broker Commission Lien Act, which authorizes a lien on the seller's sale proceeds, was not intended to eliminate the right to lien the property, provided that rights is granted in the list agreement.

A discussion of the implications of the decision ensued.

VIII. General Standing Committees Report---Michael J. Gelfand, Director and Chair-Elect

Information Items:

1. **Same Sex Marriage Implications *Ad Hoc* Committee** --- *Jeffrey Ross Dollinger, Co-Chair (Real Property); George Daniel Karibjanian, Co-Chair (Probate & Trust)*

Mr. Gelfand reported that the committee was studying the implications of the *Shaw v. Shaw*, Case No. 2D14-2384 (Fla. 2d DCA, August 27, 2014), and the *Brenner v. Scott*, Case No. 4:14-cv-00138-RH-CAS (Hinkle) (N. D. Fla., August 21, 2014) decisions involving same sex marriages, and monitoring other higher court decisions so as to provide guidance to both real estate and probates/trust practitioners.

2. **Amicus Coordination** – *Robert W. Goldman, John W. Little, III, Kenneth B. Bell and Gerald B. Cope, Jr., Co-Chairs*

Mr. Gelfand noted that an extension of time had been obtained for the filing of an amicus brief in the Supreme Court of Florida review of *Golden v. Jones*, 126 So. 3d 390 (Fla. 4th DCA, 2013).

3. **Continuing Legal Education.**

Mr. Gelfand expressed thanks to Section member Norwood Gay for agreeing to serve as a speaker on a very short notice when the scheduled speaker had to cancel for the Section CLE webinar on Seller financing after the Dodd-Frank bill. Mr. Gelfand also noted the very positive revenues from Section CLE's this year and commended the committee.

4. **Meetings**

Mr. Gelfand then reviewed the tentative meeting schedule for the 2015-2016 year.

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12. **Legislative Update (2014)** – Stuart H. Altman, Chair; Charles I. Nash, R. James Robbins, Barry F. Spivey, Stacy O. Kalmanson, and Jennifer S. Tobin, Co-Vice Chairs
13. **Legislative Update (2015)** – R. James Robbins, Chair; Charles I. Nash, Barry F. Spivey, Stacy O. Kalmanson and Jennifer S. Tobin, Co-Vice Chairs
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 - a. **American Bar Association (ABA)** – Edward F. Koren and Julius J. Zschau
 - b. **Board of Legal Specialization and Education (BLSE)** – Raul P. Ballaga, Jennifer S. Tobin, William Cary Wright, and Richard Gans
 - c. **Clerks of Circuit Court** – Laird A. Lile and William Theodore (Ted) Conner
 - d. **FLEA / FLSSI** – David C. Brennan, John Arthur Jones and Roland “Chip” Waller
Co-Vice Chairs
 - e. **Florida Bankers Association** – Mark T. Middlebrook
 - f. **Judiciary** – Judge Linda R. Allan, Judge Jack St. Arnold, Judge Herbert J. Baumann, Judge Melvin B. Grossman, Judge Hugh D. Hayes, Judge Claudia Rickert Isom, Judge Maria M. Korvick, Judge Lauren Laughlin, Judge Norma S. Lindsey, Judge Celeste H. Muir, Judge Robert Pleus, Jr., Judge Walter L. Schafer, Jr., Judge Morris Silberman, Judge Richard J. Suarez, and Judge Patricia V. Thomas
 - g. **Out of State Members** – Michael P. Stafford, John E. Fitzgerald, Jr., and Nicole Kibert
 - h. **TFB Board of Governors** – Andrew Sasso
 - i. **TFB Business Law Section** – Gwynne A. Young
 - j. **TFB CLE Committee** – Robert S. Freedman and Tae Kelley Bronner
 - k. **TFB Council of Sections** – Michael A. Dribin and Michael J. Gelfand
 - l. **TFB Pro Bono Committee** – Tasha K. Pepper-Dickinson
15. **Long-Range Planning** – Michael J. Gelfand, Chair
16. **Meetings Planning** – George J. Meyer, Chair
17. **Member Communications and Information Technology** – William A. Parady, Chair; S. Dresden Brunner, Michael Travis Hayes, and Tattiana Brenes-Stahl, Co-Vice Chairs
18. **Membership and Inclusion** – Lynwood F. Arnold, Jr. and Jason M. Ellison, Co-Chairs, Phillip A. Baumann, (Career Coaching), Navin R. Pasem (Diversity), and Guy S. Emerich (Career Coaching and Liaison to TFB’s Scope Program), Co-Vice Chairs
19. **Model and Uniform Acts** – Bruce M. Stone and S. Katherine Frazier, Co-Chairs
20. **Professionalism and Ethics--General** – Lawrence J. Miller, Chair; Tasha K. Pepper-Dickinson, Vice Chair

21. **Professionalism and Ethics—Special Subcommittee on Integrity Awareness and Coordination** – Jerry Aron and Sandra Diamond, Co-Chairs
22. **Publications (ActionLine)** – Silvia B. Rojas, Chair (Editor in Chief); Shari Ben Moussa (Advertising Coordinator), Navin R. Pasem (Real Property Case Review), Jane L. Cornett, (Features Editor), Brian M. Malec (Probate & Trust), George D. Karibjanian (Editor, National Reports), Lawrence J. Miller (Editor, Professionalism & Ethics), Arlene Udick and Lee Weintraub, Co-Vice Chairs
23. **Publications (Florida Bar Journal)** – Kristen M. Lynch (Probate & Trust), and David R. Brittain (Real Property), Co-Chairs; Jeffrey S. Goethe (Editorial Board – Probate & Trust), Linda Griffin (Editorial Board – Probate & Trust), Michael A. Bedke (Editorial Board – Real Property) and William T. Conner (Editorial Board – Real Property), Co-Vice Chairs
24. **Sponsor Coordination** –Wilhelmena F. Kightlinger, Chair; J. Michael Swaine, Deborah L. Russell, W. Cary Wright, Benjamin F. Diamond, John Cole, Co-Vice Chairs
25. **Strategic Planning** –Michael A. Dribin and Michael J. Gelfand, Co-Chairs

XIII. Adjourn

There being no further business to come before the Executive Council, Mr. Dribin thanked those in attendance and a motion to adjourn was unanimously approved at 10:04 a.m.

Respectfully submitted,

Andrew M. O'Malley as Acting Secretary
on behalf of Debra Boje, Secretary

ATTENDANCE ROSTER
REAL PROPERTY PROBATE & TRUST LAW SECTION
EXECUTIVE COUNCIL MEETINGS
2014-2015

Executive Committee	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Dribin, Michael A., Chair	√			<i>[Signature]</i>			
Gelfand, Michael J., Chair-Elect		√		<i>[Signature]</i>			
O'Malley, Andrew M., Real Property Law Div. Director	√			<i>[Signature]</i>			
Goodall, Deborah P., Probate and Trust Law Div. Director		√		<i>[Signature]</i>			
Boje, Debra L., Secretary		√		<i>[Signature]</i>			
Frazier, S. Katherine, Treasurer	√			<i>[Signature]</i>			
Hennessey, William M., Legislation Co-Chair (P&T)		√		<i>[Signature]</i>			
., Freedman, Robert S., Legislation Co-Chair (RP)	√			<i>[Signature]</i>			
Bronner, Tae K. Seminar Coordinator (P&T)		√					
Swaine, Robert S Seminar Coordinator (RP)	√		<i>[Signature]</i>	<i>[Signature]</i>			
Kelley, Shane, Director of At-Large Members		√		<i>[Signature]</i>			
Rolando, Margaret A., Immediate Past Chair	√			<i>[Signature]</i>			

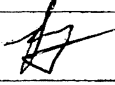

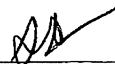
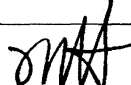



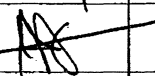
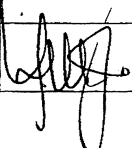
Executive Council Members	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Adams, Angela M.		√		<i>[Signature]</i>			
Adcock, Jr., Louie N., Past Chair		√					
Akins, David J.		√					
Allan, Honorable Linda		√					
Altman, Stuart H.		√	<i>[Signature]</i>	<i>[Signature]</i>			

Executive Council Members	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Archbold, Allison J.		√					
Arnold, Jr., Lynwood F.	√	√					
Aron Jerry E. Past Chair	√						
Awerbach, Martin S.	√						
Bald, Kimberly A.	√						
Ballaga, Raul P.	√						
Battle, Carlos A.		√					
Baumann, Honorable Herbert J.		√					
Baumann, Phillip A.		√		PAB			
Beales, III, Walter R. Past Chair	√						
Bedke, Michael A.	√			MB			
Belcher, William F. Past Chair		√					
Bell, Kenneth B.	√						
Beller, Amy		√		AB			
Bellew, Brandon D.		√					
Ben Moussa, Shari D.	√						
Bonevac, Judy B.		√		JB			
Bonnette, Jr., Harris L.		√					
Boyd, Deborah	√						
Bowser, Robert Wade	√						
Brenes-Stahl, Tattiana P.		√					
Brennan, David C. Past Chair		√					
Brittain, David R.	√						

Executive Council Members	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Brown, Mark A.	√			MAB			
Brunner, S. Dresden		√					
Bruton, Jr., Ed Burt	√						
Bucher, Elaine M.		√					
Butters, Sarah S.		√					
Callahan, Charles III		√					
Carlisle, David R.		√					
Caskey, John R.		√					
Christiansen, Patrick T. Past Chair	√						
Cole, John P.		√	JPC	JPC			
Cole, Stacey L.		√		SLC			
Conetta, Tami F.		√		⌘			
Conner, W. Theodore	√						
Cope, Jr., Gerald B.	√						
Cornett, Jane L.	√						
Davies, Christopher	√						
DeCubellis, Daniel L.	√						
Detzel, Lauren Y.		√					
Diamond, Benjamin F.		√		BD			
Diamond, Sandra F. Past Chair		√					
Dobrev, Alex	√						
Dollinger, Jeffrey	√						
Dudley, Frederick R.	√						

Executive Council Members	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Duvall, III, Homer	√						
Eckhard, Rick	√						
Ellison, Jason M.	√			<i>JE</i>			
Emerich, Guy S.		√					
Ertl, Christene M.	√						
Ezell, Brenda B.	√						
Falk, Jr., Jack A.		√					
Fallon, Cynthia		√					
Farach, Manuel	√			<i>MF</i>			
Felcoski, Brian J., Past Chair		√					
Fernandez, Kristopher E.	√						
Fields, Alan B.	√						
Fitzgerald, Jr., John E.		√					
Flood, Gerard J.		√		<i>GF</i>			
Foreman, Michael L.		√					
Galler, Jonathan		√					
Gans, Richard R.		√					
Gault, Doug		√					
Gay, III, Robert Norwood	√						
George, James		√					
Godelia, Vinette D.	√						
Goethe, Jeffrey S.		√					
Goldman, Louise "Tray" <i>Trey</i>	√			<i>LG</i>			

Evans, Kara ✓






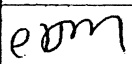

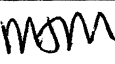
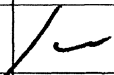
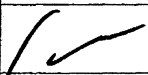
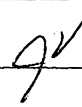
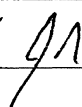

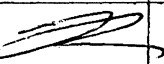
Executive Council Members	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Goldman, Robert W. Past Chair		√					
Graham, Robert M.	√						
Granet, Lloyd	√						
Griffin, Linda S.		√					
Grimsley, John G. Past Chair		√					
Grossman, Honorable Melvin B.		√					
Guttmann, III, Louis B. Past Chair	√						
Hamrick, Alexander H.		√					
Hancock, Patricia J.	√						
Hart, W.C.	√						
Hayes, Honorable Hugh D.		√					
Hayes, Michael Travis		√					
Hearn, Steven L. Past Chair		√					
Henderson, Jr., Reese J.	√						
Henderson, III, Thomas N.	√						
Heron, Lisa Colon	√						
Heuston, Stephen P.		√					
Hoffman, Brian W.	√						
Isom, Honorable Claudia R.		√					
Isphording, Roger O. Past Chair		√					
Johnson, Amber Jade F.		√					
Jones, Darby		√					
Jones, Frederick W.	√						

Executive Council Members	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Jones, Jennifer W.		✓	JWJ	JWJ			
Jones, John Arthur Past Chair		✓					
★ Jones, Patricia P.H.	✓			PPJ			
Judd, Robert B.		✓					
Kahn , Nishad Khan	✓		A	A			
Kalmanson, Stacy O.	✓						
Karibjanian, George		✓					
Karr, Thomas M.		✓					
Kayser, Joan B. Past Chair		✓		JK			
Keane, Cristin C.	✓						
Kelley, Rohan Past Chair		✓		R			
Kelley, Sean W.		✓	SW	SW			
Kibert, Nicole C.	✓						
Kightlinger, Wilhelmina F.	✓						
Kinsolving, Ruth Barnes Past Chair	✓						
Koren, Edward F. Past Chair		✓					
Korvick, Honorable Maria M.		✓		MM			
Kotler, Alan Stephen		✓					
Kromash, Keith S.		✓					
Kurian, Sanjay	✓						
Kypreos, Theodore S.		✓	TSK	TSK			
Lancaster, Robert L.		✓					
Lane, Jr., William R.		✓					

* new email:

patjoneslaw@gmail.com
 phone - 407.678.1134
 address - 4036 HAWES Lane

Executive Council Members	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Lange, George		√		<i>GL</i>			
Larson, Roger A.	√						
Laughlin, Honorable Lauren C.		√					
Law, Lester		√					
Leebrick, Brian D.	√			<i>[Signature]</i>			
Lile, Laird A. Past Chair		√					
Lindsey, Honorable Norma S.	√						
Little, III, John W.	√						
Lynch, Kristen M.		√					
Madorsky, Marsha G.		√		<i>MA</i>			
Malec, Brian		√					
Marger, Bruce Past Chair		√		<i>[Signature]</i>			
Marmor, Seth A.		√					
Marshall, III, Stewart A.		√					
Mastin, Deborah Bovarnick	√						
McCall, Alan K.	√			<i>[Signature]</i>			
McElroy, IV, Robert Lee		√					
McIver, Richard	√						
McRae, Ashley E.	√						
Melanson, Noelle		√					
Menor, Arthur J.	√						
Meyer, George F. Past Chair	√						
Meyer, Michael	√						

Executive Council Members	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Mezer, Steven H.	√						
Middlebrook, Mark T.		√					
Miller, Lawrence J.		√					
Mize, Patrick		√					
Moran, John C.		√					
Moule, Jr., Rex E.		√					
Muir, Honorable Celeste H.		√					
Murphy, Melissa J. Past Chair	√						
Nash, Charles I.		√					
Neukamm, John B. Past Chair	√						
Nice, Marina		√					
Overhoff, Alex	√						
Nguyen, Hung V.		√					
Palmer, Margaret		√					
Parady, William A.		√					
Pasem, Navin	√						
Payne, L. Howard		√					
Pence, Scott P.	√						
Pepper-Dickinson, Tasha K.		√					
Perera, Diane	√						
Petrino, Bradford	√						
Pilotte, Frank		√					
Platt, William R.		√					

Executive Council Members	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Pleus, Jr., Honorable Robert J.							
Pollack, Anne Q.	√						
Polson, Marilyn M.		√					
Price, Pamela O.		√					
Prince-Troutman, Stacey A.		√					
Pyle, Michael A.		√	<i>MP</i>	<i>MSA</i>			
Quintero, Jason	√			<i>J. Quintero</i>			
Rao, Tara		√					
Redding, John N.	√			<i>J. Redding</i>			
Reiser, Alyse		√					
Rendzio, Bryan	√						
Reynolds, Stephen H.	√						
Rieman, Alexandra V.		√					
Robbins, Jr., R.J.	√						
Roberts, III, Hardy L.	√			<i>HLR</i>			
Robinson, Charles F.		√					
Rojas, Silvia B.	√		<i>SR</i>	<i>SM</i>			
Roman, Paul E.		√	<i>PE</i>	<i>PE</i>			
Russell, Deborah L.		√		<i>DLR</i>			
Russick, James C.	√						
Rydberg, Marsha G.	√			<i>MGR*</i>			
Sachs, Colleen C.	√						
Sasso, Andrew		√					

* New address
1304 DeSoto A
Ste 202 - Tai
336

Executive Council Members	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Sauer, Jeffrey T.	√						
Schafer, Jr., Honorable Walter L.		√					
Schnitker, Clay A.	√						
Schofield, Percy A.	√						
Schwartz, Robert M.	√						
Scuderi, Jon		√					
Seaford, Susan	√						
Sheets, Sandra G.		√					
Shoter, Neil B.	√			MBS			
Silberman, Honorable Morris							
Silberstein, David M.		√					
Simon, Michael		√					
Sklar, William P.	√						
Smart, Christopher W.	√						
Smith, G. Thomas Past Chair	√						
Smith, Wilson Past Chair		√					
Sparks, Brian C.		√					
Spivey, Barry F.		√		BFS			
Spurgeon, Susan K.	√		SKS	SKS			
Stafford, Michael P.		√					
Staker, Karla J.	√						
Stern, Robert G.	√						
Stone, Adele I.	√						

Executive Council Members	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Stone, Bruce M. Past Chair		√					
Suarez, Honorable Richard J.							
Sundberg, Laura K.		√	LKS	LKS			
Swaine, Jack Michael Past Chair	√		JMS	JMS			
Taft, Eleanor W.	√						
Taylor, Richard W.	√						
Tescher, Donald R.		√					
Thomas, Honorable Patricia V.		√	P.T.T.	P.U.T.			
Thornton, Kenneth E.	√			KET			
Tobin, Jennifer S.	√						
Triggs, Matthew H.		√					
Udick, Arlene C.	√						
Virgil, Eric		√					
Waller, Roland D. Past Chair	√		RU	RU			
Walters, Hanton H.	√						
Wartenberg, Stephanie Harriet		√					
Weintraub, Lee A.	√		LA	LA			
Wells, Jerry B.		√					
White, Jr., Richard M.		√					
Whynot, Sancha B.		√					
Wilder, Charles D.		√					
Williamson, Julie Ann S. Past Chair	√						
Wintter, Christopher Q.		√		W			

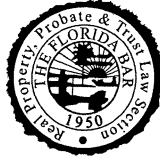
Executive Council Members	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Wohlust, Gary Charles		✓		<i>[Signature]</i>			
Wolasky, Marjorie E.		✓					
Wolf, Jerome L.		✓	<i>[Signature]</i>	<i>[Signature]</i>			
Wright, William Cary	✓		<i>[Signature]</i>	<i>[Signature]</i>			
Young, Gwynne A.		✓					
Zeydel, Diana S.C.		✓					
Zikakis, Salome J.	✓			<i>[Signature]</i>			
Zschau, Julius J. Past Chair	✓						

RPPTL Fellows	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Christy, Doug	✓						
Costello, John Truman Jr.		✓					
Jennison, Julia Lee	✓						
Lebowitz, Sean		✓					
Rosenberg, Josh		✓	<i>[Signature]</i>	<i>[Signature]</i>			
Smith, Kym	✓						
Sneeringer, Michael Alan		✓					
VanSickle, Melissa	✓						

Legislative Consultants	Division		Aug. 2 Palm Beach	Sept. 20 Chicago, Illinois	Nov. 15 Naples	Mar. 20 Orlando	Jun. 6 Miami Beach
	RP	P&T					
Adams, Howard Eugene		✓					
DiNunzio, Ashely	✓		<i>[Signature]</i>	<i>[Signature]</i>			
Dunbar, Peter M.							
Edenfield, Martha			<i>[Signature]</i>	<i>[Signature]</i>			

Gary Coleman

[Signature]



**The Florida Bar
Real Property, Probate & Trust Law Section**

Special Thanks to the

GENERAL SPONSORS

Overall Sponsors - Legislative Update & Convention & Spouse Breakfast
Attorneys' Title Fund Services, LLC – Melissa Murphy

Thursday Lunch
Management Planning, Inc. - Roy Meyers / Joe Gitto

Thursday Night Reception
JP Morgan - Carlos Battle / Alyssa Feder

Old Republic National Title Insurance Company - Jim Russick

Friday Night Reception
Wells Fargo Private Bank - Mark Middlebrook / George Lange / Alex Hamrick

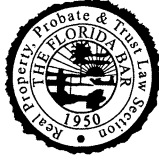
Friday Night Dinner
First American Title Insurance Company - Alan McCall
Regions Private Wealth Management - Margaret Palmer

Probate Roundtable
BMO Private Bank - Joan Kayser
SRR (Stout Risius Ross Inc.) - Garry Marshall

Real Property Roundtable
Fidelity National Title Group - Pat Hancock

Saturday Lunch
The Florida Bar Foundation - Jane Curran

Saturday Night Reception and Dinner
SunTrust Bank – Erin Wood



**The Florida Bar
Real Property, Probate & Trust Law Section**

Special Thanks to the

FRIENDS OF THE SECTION

Business Valuation Analysts, LLC - *Tim Bronza*

Guardian Trust - *Ashley Gonnelli*

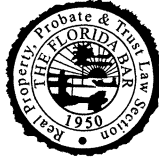
Kravit, The Estate Department – *Van Stillman*

North American Title Insurance Company – *Geoffrey B. Ginn, Geoff Harris*

Valuation Services, Inc. - Jeff Bae, JD, CVA

Wilmington Trust – David Fritz

Wright Private Asset Management, LLC – *Ted Roman*



**The Florida Bar
Real Property, Probate & Trust Law Section**

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BNY Mellon Wealth Management – Joan Crain
IRA, Insurance & Employee Benefits Committee
&
Probate Law & Procedure Committee

Business Valuation Analysts – Tim Bronza
Trust Law Committee

Coral Gables Trust – John Harris
Probate and Trust Litigation Committee

First American Title Insurance Company – Alan McCall
Condominium & Planned Development Committee

First American Title Insurance Company – Wayne Sobien
Real Estate Structures and Taxation Committee

Guardian Trust – Ashley Gonnelli
Guardianship, Power of Attorney & Advance Directives Committee

Iberia Wealth Advisors – Jessica Urbanski
Estate & Trust Tax Planning Committee

Kravit Estate Appraisal – Bianca Morabito
Estate and Tax Planning Committee

Life Audit Professionals – Nicole Newman
IRA, Insurance & Employee Benefits Committee

Management Planning, Inc. – Roy Meyers / Joe Gitto
Estate & Trust Tax Planning Committee

Northern Trust – Tami Conetta
Trust Law Committee

RPPTL 2014 – 2015

Remaining Executive Council Meeting Schedule

Mike Dribin's YEAR

Date

Location

March 19 - 22, 2015

Executive Council Meeting

Ritz Carlton Grande Lakes

Orlando, Florida

Reservation Phone # 800-241-3333

<http://www.ritzcalton.com>

Room Rate: \$269

Cut-off Date: February 27, 2015

June 4 - 7, 2015

Executive Council Meeting / RPPTL Convention

Fontainebleau Florida Hotel

Miami Beach, Florida

Reservation Phone # 800-548-8886

Room Rate \$239

Cut-off Date: May 13, 2015

**Real Property, Probate Trust Law Section / Executive Council Meeting Schedule
Ritz Carlton, Grande Lakes, Orlando, FL - March 19-22, 2015**

Date/Time	Committee / Event:	Set	# at Table	# perimeter chairs	Equipment
Wednesday	March 18, 2015				
2:00 pm – 6:00 pm	Registration Desk Hours				
Thursday	March 19, 2015				
8:00 am – 5:00 pm	Registration Desk Hours				
9:00 am – 10:30 am	Executive Committee **	Conf	12	0	chair's suite
10:30 am – 12:00 pm	Homestead Problem Study *	H/S	20	10	
12:00 pm – 1:30 pm	Digital Assets and Information Study Committee	H/S	40	10	
12:00 pm – 1:30 pm	Ad Hoc Study on Spendthrift Trust Issues Committee	H/S	20	10	lunch in room
12:00 pm – 1:30 pm	Ad Hoc Study on Same Sex Marriage Issues *	H/S	20	10	lunch in room
1:00 pm – 2:30 pm	Title Issues & Standards	Conf	10		speakerphone
1:00 pm – 3:00 pm	Real Property Finance & Lending	H/S	40	20	microphones, podium, speaker phone
1:00 pm – 3:30 pm	Condominium and Planned Development	H/S	70	10	microphones, podium
1:30 pm – 3:30 pm	Probate & Trust Litigation	H/S	80	40	microphones, podium
3:30 pm – 5:00 pm	Construction Law Institute	H/S	20		speakerphone
3:30 pm – 5:00 pm	Landlord & Tenant	Conf	10		speakerphone
3:30 pm – 5:00 pm	Title Insurance & Title Insurance Liaison	H/S	45	15	speakerphone microphones podium
3:30 pm – 5:00 pm	Attorney Trust Officer	Conf	14	10	speakerphone
3:30 pm – 5:00 pm	Estate & Trust Tax Planning	H/S	60	20	microphones, podium
5:00 pm – 6:00 pm	At Large Members	rounds	80		microphones, podium/beer & wine

Real Property, Probate Trust Law Section / Executive Council Meeting Schedule

Ritz Carlton, Grande Lakes, Orlando, FL - March 19-22, 2015

5:00 pm – 6:00 pm	Elective Share Review Committee *	conf	15		
5:00 pm – 6:00 pm	ALTA Best Practices Task Force	conf	15		
6:15 pm – 9:30 pm	Welcome Reception	<i>Pre-Registration and Ticket Required</i>			
9:30 pm – 11:30 pm	Hospitality Suite				
Friday	March 20, 2015				
6:30 AM	Reptiles Run				
7:30 am – 9:00 am	Continental Breakfast (GRAB AND GO)	<i>Pre-Registration and Ticket Required</i>			
8:00 am – 9:30 am	Fiduciary Practice Group	H/S	20		speakerphone
8:00 am – 9:30 am	Guardianship, Power of Attorney & Advanced Directives	H/S	40	20	microphone
8:00 am – 9:30 am	Legal Opinions Committee	Conf	14	5	speakerphone
8:00 am – 9:30 am	Asset Protection	H/S	60	20	microphones, podium
8:00 am – 9:30 am	Isurance & Surety	H/S	40	20	microphones, podium, speakerphone
9:00 am – 11:00 am	Membership and Inclusion	H/S	25	5	
9:00 am – 11:00 am	Real Estate Structures and Taxation	H/S	30	15	microphones, podium
9:30 am – 11:00 am	Residential Real Estate & Industry Liaison Committee	H/S	40	20	microphones, podium, speakerphone
9:30 am – 11:30 am	Trust Law	H/S	80	40	microphones, podium
9:30 am – 11:00 am	Development and Land Use	Conf	14	none	speakerphone
9:30 am – 11:00 am	Sponsorship Committee	Conf	10	none	none
11:00 am – 12:30 pm	Construction Law	H/S	20	10	speakerphone, microphones, podium

**Real Property, Probate Trust Law Section / Executive Council Meeting Schedule
Ritz Carlton, Grande Lakes, Orlando, FL - March 19-22, 2015**

11:00 am – 12:30 pm	Real Property Litigation	H/S	30	10	speakerphone, microphones, podium
11:30 am – 1:00 pm	Member Communication and Information Technology	Conf	10	5	
11:30 pm – 1:30 pm	Buffet Lunch (GRAB AND GO)	<i>Pre-Registration and Ticket Required</i>			
11:30 pm – 1:00 pm	Ad Hoc Decanting				
11:30 pm – 1:00 pm	IRA, Insurance & Employee Benefits	H/S	30	15	microphones
1:00 pm – 3:00 pm	Probate Law & Procedure	H/S	80	40	microphones, podium
1:30 pm – 3:00 pm	Commercial Real Estate	H/S	25	15	speakerphone
1:30 pm – 3:00 pm	Real Property Problem Study	H/S	20	25	speakerphone
1:30 pm – 3:00 pm	Fellows and Mentoring	H/S	20	25	
3:00 pm – 5:00 pm	Real Property Law Division Roundtable	rounds	100		microphones, podium
3:00 pm – 5:00 pm	Probate and Trust Law Division Roundtable	rounds	140		microphones, podium
5:00 pm – 6:00 pm	PAC	Round s	100		microphones, podium
5:00 pm – 6:00 pm	Ad Hoc Jurisdiction/Service Process	Round s	100		microphones, podium
6:30 pm – 9:30 pm	Reception and Dinner	<i>Pre-Registration and Ticket Required</i>			
9:30 pm – 11:30 pm	Hospitality Suite				
Saturday	March 21, 2015				
6:00 AM	Reptiles Run				
7:30 am - 9:00 am	Executive Council Breakfast	<i>Pre-Registration and Ticket Required- Breakfast is complimentary for EC members & \$35 for spouses and guests</i>			

Real Property, Probate Trust Law Section / Executive Council Meeting Schedule

Ritz Carlton, Grande Lakes, Orlando, FL - March 19-22, 2015

9:00 am – 12:00 pm	Executive Council Meeting	class w/ riser	250	50	two screens,podium, microphones, two standing microphones down each aisle
2:00 pm – 4:00 pm	Career Coaching Session				
7:00 pm – 9:30 pm	Dinner off Premises	<i>Pre-Registration and Ticket Required</i>			

***Participation in deliberations and voting is limited to committee members only**

**** Attendance by invitation only**

**Resolution
Of**

The Executive Council of the Real Property, Probate & Trust Law Section

The Florida Bar

Recognizing the Service and Contributions of

John Arthur Jones

Whereas,

JOHN ARTHUR JONES ("John Arthur") of Tampa, Florida, was a respected and deeply loved member of the Real Property, Probate & Trust Law Section of The Florida Bar who passed away on August 12, 2014, predeceased by his wife of 64 years, Sally, and survived by his four children, Matthew, Lisa, Malcolm and Darby, seven grandchildren, Melisa, Emily, Troy, Loren, John Arthur, Charlie, and Bobby, and two great-grandchildren, Benjamin and Ellie; and

Whereas,

John Arthur was born in San Antonio, Florida on October 9, 1921, the youngest of six children, graduated from DeSoto County High School in 1939 and enlisted in the Florida National Guard following graduation, served his country with distinction as a member of General Patton's 3rd Army in the European Theatre during World War II and received a bronze star for his actions in the Battle of Metz; and

Whereas,

After returning from war, John Arthur earned his undergraduate and law degree from the University of Florida and was admitted to The Florida Bar in 1949; and

Whereas,

For a brief period of time after his graduation in 1949, John Arthur practiced law in Dade City but in September of that year accepted a job at Knight, Thompson & Turner, which ultimately became the international law firm of Holland & Knight due, in large part, to the efforts of John Arthur and his friend, Chesterfield Smith; and

Whereas,

John Arthur, throughout his remarkable legal career, practiced and excelled in many areas of the law, most notably, estate and trust law, real estate law, corporate law and banking law; and

Whereas,

John Arthur is the only Florida attorney to have been elected as a fellow to both the American College of Trust and Estate Counsel ("ACTEC") and the American College of Real Estate Lawyers ("ACREL") and was an Academician in the International Academy of Estate and Trust Law; and

Whereas,

John Arthur was the editor of the Florida Banking Code and served as a member of the faculty of the Florida School of Banking at the University of Florida from 1969 until 1981, teaching members of the Florida Banking Association about banking and commercial law; and

Whereas,

John Arthur was a member of the Real Property, Probate & Trust Law Section of The Florida Bar for 60 years, served as Chair of the Section from 1980 – 1981, was considered the "Dean of Probate Law" in the State of Florida, was a founding member of Florida Lawyer Support Services, Inc. ("FLSSI") and developed what is widely recognized as the most comprehensive set of probate and guardianship forms in the country, served on countless Real Property, Probate and Trust Law Section committees and assisted with rewriting the Florida Probate Code (twice), the Florida Trust Code, and most recently, the Florida Power of Attorney Act, was a frequent lecturer at many Continuing Legal Education seminars, authored several chapters in various publications of The Florida Bar Continuing Legal Education manuals and was co-author of Florida Wills and Trusts for LAWGIC; and

Whereas,

In 1985, John Arthur was the first recipient of the Robert C. Scott Memorial Award, a recognition which is awarded by the Real Property, Probate & Trust Law Section to a member who best exemplifies devotion and service to the Section and eighteen years later, in 2003, became the first recipient of the William S. Belcher Lifetime Professionalism Award awarded by the Section to a member in recognition of lifetime contributions to promoting the highest standards of ethics and professionalism; and

Whereas,

In 2012 in recognition and gratitude for John Arthur's lifelong commitment to the Real Property, Probate and Trust Law Section of The Florida Bar, the Section's Annual Service Award was renamed "The John Arthur Jones Annual Service Award" in dedication to John Arthur, a man who personified the meaning of the word "service"; and

Whereas,

John Arthur's lasting contributions to the legal community will continue on through the work of the countless number of attorneys he mentored - all of whom proudly called him "friend" and all of whom will remember him always in their hearts and minds; and

Whereas,

The Executive Council of the Real Property, Probate & Trust Law Section of The Florida Bar recognizes the extraordinary dedication and unselfish service and contributions that John Arthur has given to the nation, his community, his family, his friends, The Florida Bar, particularly its Real Property, Probate and Trust Law Section, and acknowledges that he will be eternally missed.

Now, Therefore,

Be it resolved by the Executive Council of the Real Property, Probate & Trust Law Section of The Florida Bar that the loss of John Arthur Jones is mourned, and that his distinguished service and rich contributions to the practice of law, particularly to the practice of estate and trust law, are respected, appreciated, acknowledged and will be remembered forever.

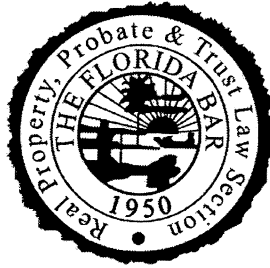
Unanimously adopted by the Executive Council of the Real Property, Probate & Trust Law Section of The Florida Bar at Chicago, Illinois, this 20th day of September, 2014.

Michael A. Dribin, Chair
Real Property, Probate & Trust Law Section
The Florida Bar

Attest: _____

Debra L. Boje, Secretary





RPPTL Financial Summary from Separate Budgets
2014 – 2015 [July 1 – September 30¹]
YEAR TO DATE REPORT

General Budget

YTD

Revenue:	\$ 705,668
Expenses:	\$ 417,947
Net:	\$ 287,721

Trust Officer Conf

Revenue:	\$ 1,445
Expenses:	\$ 936
Net:	\$ 509

Legislative Update

Revenue:	\$ 41,819
Expenses:	\$ 90,927
Net:	\$ (49,108)

Convention

Revenue:	\$ 0
Expenses:	\$ 0
Net:	\$ 0

Roll-up Summary (Total)

Revenue:	\$ 748,932
Expenses:	\$ 509,810
Net Operations:	\$ 239,122

Beginning Fund Balance:	\$ 892,279
Current Fund Balance (YTD):	\$ 1,131,401
Forecasted June 2015 Fund Balance	\$ 629,752

¹ This report is based on the tentative unaudited detail statement of operations dated 10/6/14.

The witness should not be compensated for this time. The documentation and testimony provided at the deposition do not support the time reflected in her invoice.

LEGISLATIVE POSITION REQUEST FORM

GOVERNMENTAL AFFAIRS OFFICE

Date Form Received _____

GENERAL INFORMATION

Submitted By Steven H. Mezer, Chair, Condominium and Planned Development Committee of the Real Property Probate & Trust Law Section (RPPTL Approval Date November 15, 2014)

Address 1801 N. Highland Avenue, Tampa, Florida 33602
Telephone: (813) 204-6498

Position Type RPPTL Section, The Florida Bar
(Florida Bar, section, division, committee or both)

CONTACTS

Board & Legislation Committee Appearance [Main Contact Person], [__name of law firm__], [__address__], Telephone (____) _____.

Barry F. Spivey, Spivey & Fallon, PA, 1515 Ringling Blvd., Suite 885, Sarasota, FL 34236 Telephone 941-840-1991

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

Steven H. Mezer, Bush Ross, P.A., 1801 N. Highland Avenue, Tampa, Florida 33602, Telephone (813) 204-6498, smezer@bushross.com
(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 Support X Oppose _____ Tech Asst. _____ Other _____

Proposed Wording of Position for Official Publication:

"Support amending Florida Condominium law pertaining to the termination of condominiums to protect unit owners and provide certainty and predictability to the process."

Reasons For Proposed Advocacy:

Experience with the current statute has revealed the need to revise operational and procedural issues to protect the rights and interests of the parties, while clarifying procedural issues, powers of the termination

trustee. Amendment is necessary to address concerns that have been raised regarding potential inequities. See White Paper.

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 The Florida Bar Support
(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

[List here other Bar sections, committees or attorney organizations]
(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.

A bill to be entitled

An act relating to condominiums; amending s. 718.117, F.S.; providing for certain protections of residential unit owners upon termination of residential condominiums pursuant to s. 718.117(4), F.S.; providing a framework of determining whether more than 10 percent of the total voting interests of the condominium have rejected the plan of termination; providing a process of amending a declaration to conform s. 718.117; providing for removal of members of the board of administration by unit owners of an association with a termination plan; limiting time for obligation for association or termination trustee to prepare and provide quarterly reports; providing notice requirements related to plan of termination; providing for required contents in plan of termination; providing for termination of rights in units or common elements upon termination; providing for withdrawal of plan of termination; providing for amendment of plans of termination to correct scrivener's errors; authorizing termination trustee right to adjust termination proceeds by certain amounts and costs; authorizing the court to void a plan of termination that was not properly approved; specifying priority for distribution of proceeds from sale of property, common surplus, and other assets; authorizing trustee to interplead certain parties if proceeds cannot be delivered to a lienor in certain instances; authorizing trustee to recover fees and costs in interpleader actions; providing that undeliverable proceeds must be treated as unclaimed property in certain instances; amending s. 718.1265, F.S.; authorizing interested persons to petition the court to determine the identity of directors or to appoint a receiver to conclude the affairs of the association after a natural disaster; requiring notice to lienholders of any such petition; requiring that all unit owners be provided written notice of the appointment of a receiver; providing for the delivery of such notice; providing that appointment of a receiver is subject to the bonding requirements of the order; authorizing the receiver to exercise certain powers; requiring the receiver to prepare quarterly reports; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 718.117, Florida Statutes, is amended to read:

718.117 Termination of condominium.—

(1) **LEGISLATIVE FINDINGS.**—The Legislature finds that condominiums are created as authorized by statute. In circumstances that may create economic waste, areas of disrepair, or obsolescence of a condominium property for its intended use and thereby lower property tax values, the Legislature further finds that it is the public policy of this state to provide by statute a method to preserve the value of the property interests and the rights of alienation thereof that owners have in the condominium property before and after termination. The Legislature further finds that it is contrary to the public policy of this state to require the continued operation of a condominium when to do so constitutes economic waste or when the ability to do so is made impossible by law or regulation. This section applies to all condominiums in this state in existence on or after July 1, 2007.

(2) **PROTECTION OF RESIDENTIAL UNIT OWNERS.**—The following paragraphs apply to residential condominiums being terminated pursuant to the optional termination provisions of 718.117(4) only, if, at the time of recording of the plan of termination,

at least 80% of the total voting interests are owned by a bulk owner, and no sale of the terminated condominium property as a whole to an unrelated third party is contemplated in the plan of termination. A bulk owner shall be deemed to be a single holder of such voting interests or an owner together with related entities which would be considered an insider under s. 726.102 holding such voting interests.

(a) Right to Retain Possession. Following the termination, if the former condominium units are offered for lease to the public, each unit owner in occupancy immediately prior to the date of recording of the plan of termination whose unit was granted homestead exemption status by the applicable county property appraiser as of the effective date of termination has the right to lease his or her former unit and remain in possession for a period of 12 months from the effective date of the termination on the same terms as similar unit types within the property are being offered to the public. In order to obtain a lease and exercise the right to retain exclusive possession of the unit owner's former unit, the unit owner must make a written request to the termination trustee to rent the former unit no later than 90 days following the date of recording of the plan of termination. Any unit owner that fails to timely make such written request and sign and return a lease to the termination trustee within 15 days of being presented with a notice to such unit owner containing such lease, shall be deemed to have waived his or her right to retain possession of his or her former unit and shall be required to vacate the former unit upon the effective date of the termination, unless otherwise provided in the plan.

(b) Offer To Purchase Certain Units. Prior to filing with the division pursuant to paragraph (c) of this subsection, the bulk owner shall extend an offer consistent with the provisions of this paragraph to purchase the unit of any unit owner whose unit was granted homestead exemption status by the applicable county property appraiser as of the date of the offer and is current in payment of both assessments and other monetary obligations to the association and such owner's monetary obligations under any mortgage encumbering the unit as of the date of the offer. The offer shall be in the form of a Florida Bar form "as is" residential purchase contract with condominium rider contained in a notice which provides that the bulk owner will purchase the unit at a purchase price of not less than the greater of 120% of the unit's most recent assessed value in the records of the applicable county property appraiser or 80% of the purchase price paid by such unit owner. The notice of the offer shall indicate that it is irrevocable for a period of 30 days, may be accepted only by signing the purchase contract contained in the notice and returning the signed purchase contract to the bulk owner at the address specified in the notice and is contingent only upon the unit owner providing reasonable proof that the unit owner is current as of the date of the offer in payment of both of the monetary obligations with respect to the unit to the association and to any holder of a mortgage on the unit, if the unit is subject to mortgage, or indicating the unit is not subject to a mortgage. The offer shall further provide that closing will occur on a specified date not later than 45 days following acceptance by the unit owner. Any acceptance of the notice of the bulk owner's offer will not be effective if an owner is unable to deliver marketable title to the unit free and clear of all liens other than those to be paid at closing.

(c) Filing With Division.

1. Prior to presenting a plan of termination to the unit owners for consideration in the manner provided for in this section, a bulk owner shall submit to the division for filing a copy of

the notice of offer pursuant to paragraph (b) of this subsection, a copy of the proposed plan of termination and the following written disclosures:

a. The identity of any person that owns or controls 50% or more of the units in the condominium, and if the units are owned by an artificial entity, a disclosure of the natural person or persons who, directly or indirectly, manage or control the entity and the natural person or persons who, directly or indirectly, own or control 20% or more of the artificial entity or entities that constitute the bulk owner.

b. The identity of all units acquired by any bulk owner, the date of acquisition of each unit, and the total consideration paid to the prior owner by the bulk owner, whether or not attributed to the purchase price of the unit.

c. The relationship of any currently serving board member to the bulk owner or any person or entity affiliated with the bulk owner and subject to disclosure pursuant to this subsection.

d. Evidence that all monetary obligations of the bulk owner to the association have been paid in full.

2. Within 5 days of filing with the division, a copy of the items described in this paragraph (de) shall be provided by first class mail to all unit owners, along with the date of the filing, and notice that they will have 20 days from the giving of notice to file written comments and objections with the division.

3. The proposed plan of termination may not be submitted to the unit owners for approval unless the division acknowledges the plan of termination complies with the requirements of this paragraph and subsections (10) and (11). The division shall have 45 days from receipt of the initial filing to notify the bulk owner or its agent by mail of any deficiencies or that the filing is acknowledged to be compliant. If the notice is not given within 45 days from receipt of the filing, the filing is conclusively presumed to be compliant.

4. Any unit owner objecting to the plan of termination filed with the division or any part thereof for noncompliance with this section may file an objection pursuant to the provisions of subsection (16).

5. The division shall have authority to promulgate rules to implement this paragraph.

(23) TERMINATION BECAUSE OF ECONOMIC WASTE OR IMPOSSIBILITY.—

(a) Notwithstanding any provision in the declaration, the condominium form of ownership of a property may be terminated by a plan of termination approved by the lesser of the lowest percentage of voting interests necessary to amend the declaration or as otherwise provided in the declaration for approval of termination if:

1. The total estimated cost of construction or repairs necessary to construct the intended improvements or restore the improvements to their former condition or bring them into compliance with applicable laws or regulations exceeds the combined fair market value of the

units in the condominium after completion of the construction or repairs; or

2. It becomes impossible to operate or reconstruct a condominium to its prior physical configuration because of land use laws or regulations.

(b) Notwithstanding paragraph (a), a condominium in which 75 percent or more of the units are timeshare units may be terminated only pursuant to a plan of termination approved by 80 percent of the total voting interests of the association and the holders of 80 percent of the original principal amount of outstanding recorded mortgage liens of timeshare estates in the condominium, unless the declaration provides for a lower voting percentage.

(c) Notwithstanding paragraph (a), a condominium that includes units and timeshare estates where the improvements have been totally destroyed or demolished may be terminated pursuant to a plan of termination proposed by a unit owner upon the filing of a petition in court seeking equitable relief. Within 10 days after the filing of a petition as provided in this paragraph and in lieu of the requirements of paragraph (15)(a), the petitioner shall record the proposed plan of termination and mail a copy of the proposed plan and a copy of the petition to:

1. If the association has not been dissolved as a matter of law, each member of the board of directors of the association identified in the most recent annual report filed with the Department of State and the registered agent of the association;

2. The managing entity as defined in s. 721.05(22);

3. Each unit owner and each timeshare estate owner at the address reflected in the official records of the association, or, if the association records cannot be obtained by the petitioner, each unit owner and each timeshare estate owner at the address listed in the office of the tax collector for tax notices; and

4. Each holder of a recorded mortgage lien affecting a unit or timeshare estate at the address appearing on the recorded mortgage or any recorded assignment thereof.

The association, if it has not been dissolved as a matter of law, acting as class representative, or the managing entity as defined in s. 721.05(22), any unit owner, any timeshare estate owner, or any holder of a recorded mortgage lien affecting a unit or timeshare estate may intervene in the proceedings to contest the proposed plan of termination brought pursuant to this paragraph. The provisions of subsection (9), to the extent inconsistent with this paragraph, and subsection (16) are not applicable to a party contesting a plan of termination under this paragraph. If no party intervenes to contest the proposed plan within 45 days after the filing of the petition, the petitioner may move the court to enter a final judgment to authorize implementation of the plan of termination. If a party timely intervenes to contest the proposed plan, the plan may not be implemented until a final judgment has been entered by the court finding that the proposed plan of termination is fair and reasonable and authorizing implementation of the plan.

(4) OPTIONAL TERMINATION.--

(3a)—Except as provided in subsection (23) or unless the declaration provides for a

lower percentage, the condominium form of ownership may be terminated for all or a portion of the condominium property pursuant to a plan of termination approved by at least 80 percent of the total voting interests of the condominium if no more than 10 percent of the total voting interests of the condominium have rejected the plan of termination by negative vote or by providing written objections. This subsection does not apply to condominiums in which 75 percent or more of the units are timeshare units.

(b) For purposes of determining whether more than 10 percent of the total voting interests of the condominium have rejected the plan of termination:

1. if the plan of termination is voted on at a meeting of the unit owners called in accordance with subsection (9), then any unit owner desiring to reject the plan must do so by either voting to reject the plan in person or by proxy, or by delivering a written rejection objection to the association prior to or at the meeting.

2. if the plan of termination is approved by written consent or joinder without a meeting, then any unit owner desiring to object to the plan must deliver to the association a written objection no later than 20 days after the date that the association notifies the non-consenting owners, in the manner provided under paragraph (15)(a), that the plan of termination has been approved by written action in lieu of a meeting.

3. Any vote to reject a plan of termination, and any objection to a plan of termination, not timely filed with the association as set forth in subparagraphs (4)(b)1.-2., shall not be valid for any purpose. In addition, a unit owner may withdraw a written objection by delivering a written withdrawal to the association. Upon such withdrawal, the withdrawn objection shall be deemed void ab initio.

(45) EXEMPTION.—A plan of termination is not an amendment subject to s. 718.110(4). In a partial termination, a plan of termination is not an amendment subject to s. 718.110(4) if the ownership share of the common elements of a surviving unit in the condominium remains in the same proportion to the surviving units as it was before the partial termination. An amendment to a declaration to conform it to this section is not an amendment described in or subject to s. 718.110(4) and may be approved by the lesser of four-fifths of the voting interests or the percentage of the voting interests required to amend the declaration.

(56) MORTGAGE LIENHOLDERS.—Notwithstanding any provision to the contrary in the declaration or this chapter, approval of a plan of termination by the holder of a recorded mortgage lien affecting a condominium parcel in which fewer than 75 percent of the units are timeshare units is not required ~~unless~~. If the plan of termination will result in less than the full satisfaction of the mortgage lien affecting thea condominium parcel. If such approval is required and not given, a holder of a recorded mortgage lien who objects to the plan of termination may contest the plan only as provided in subsection (16). AtUnless otherwise provided in the time of saleplan, the lien of a recorded mortgage shall be transferred to the proportionate share of the proceeds assigned to the condominium parcel in the plan of termination or as subsequently modified by the court.

(67) POWERS IN CONNECTION WITH TERMINATION.—The approvalrecording

of the plan of termination does not terminate the association as a corporation. It shall continue in existence following approval of the plan of termination with all powers and duties it had before approval of the plan. The unit owners in a condominium with an approved plan of termination may recall or remove members of the board of administration with or without cause at any time as provided in s. 718.112(2)(j). Notwithstanding any provision to the contrary in the declaration or bylaws, after approval of the plan the board shall:

- (a) Employ directors, agents, attorneys, and other professionals to liquidate or conclude its affairs.
- (b) Conduct the affairs of the association as necessary for the liquidation or termination.
- (c) Carry out contracts and collect, pay, and settle debts and claims for and against the association.
- (d) Defend suits brought against the association.
- (e) Sue in the name of the association for all sums due or owed to the association or to recover any of its property.
- (f) Perform any act necessary to maintain, repair, or demolish unsafe or uninhabitable improvements or other condominium property in compliance with applicable codes.
- (g) Sell at public or private sale or exchange, convey, or otherwise dispose of assets of the association for an amount deemed to be in the best interests of the association, and execute bills of sale and deeds of conveyance in the name of the association.
- (h) Collect and receive rents, profits, accounts receivable, income, maintenance fees, special assessments, or insurance proceeds for the association.
- (i) Contract and do anything in the name of the association which is proper or convenient to terminate the affairs of the association.

~~(7) NATURAL DISASTERS.—~~

~~(a) If, after a natural disaster, the identity of the directors or their right to hold office is in doubt, if they are deceased or unable to act, if they fail or refuse to act, or if they cannot be located, any interested person may petition the circuit court to determine the identity of the directors or, if found to be in the best interests of the unit owners, to appoint a receiver to conclude the affairs of the association after a hearing following notice to such persons as the court directs. Lienholders shall be given notice of the petition and have the right to propose persons for the consideration by the court as receiver. If a receiver is appointed, the court shall direct the receiver to provide to all unit owners written notice of his or her appointment as receiver. Such notice shall be mailed or delivered within 10 days after the appointment. Notice by mail to a unit owner shall be sent to the address used by the county property appraiser for notice to the unit owner.~~

~~(b) The receiver shall have all powers given to the board pursuant to the declaration,~~

~~bylaws, and subsection (6), and any other powers that are necessary to conclude the affairs of the association and are set forth in the order of appointment. The appointment of the receiver is subject to the bonding requirements of such order. The order shall also provide for the payment of a reasonable fee to the receiver from the sources identified in the order, which may include rents, profits, incomes, maintenance fees, or special assessments collected from the condominium property.~~

~~(8) REPORTS AND REPLACEMENT OF RECEIVER – (a) The association, receiver, or termination trustee shall prepare reports each quarter following the approval of the plan of termination setting forth the status and progress of the termination, costs and fees incurred, the date the termination is expected to be completed, and the current financial condition of the association, receivership, or trusteeship and provide copies of the report by regular mail to the unit owners and lienors at the mailing address provided to the association by the unit owners and the lienors. The obligation to prepare and provide reports shall cease 180 days after the later of the effective date of termination, or the initial distribution of the termination proceeds.~~

~~(b) The unit owners of an association in termination may recall or remove members of the board of administration with or without cause at any time as provided in s. 718.112(2)(j).~~

~~(c) The lienors of an association in termination representing at least 50 percent of the outstanding amount of liens may petition the court for the appointment of a termination trustee, which shall be granted upon good cause shown.~~

(9) PLAN OF TERMINATION.—The plan of termination must be a written document executed in the same manner as a deed by unit owners having the requisite percentage of voting interests to approve the plan and by the termination trustee. A copy of the proposed plan of termination shall be given to all unit owners, and all tenants reflected in the association's records in the same manner as for notice of an annual meeting, at least 14 days prior to the meeting at which the plan of termination is to be voted upon or prior to or simultaneously with the distribution of the solicitation seeking execution of the plan of termination or written consent to or joinder in the plan. Notice does not have to be given to tenants of timeshare or hotel room units. The notice must contain a statement that if an owner is opposed to the termination and desires to reject the plan, the owner must do so in person or by proxy at a meeting or by written notice to the association given no later than 20 days after the date that the association notifies the non-consenting owners, in the manner provided under paragraph (15)(a). A unit owner may document assent to the plan by executing the plan or by consent to or joinder in the plan, in either case in the manner of execution of a deed. A plan of consent to or joinder in a plan is effective for a period of one year after the date it is delivered in the manner required by this section, unless a written revocation is delivered to the termination trustee prior to the approval of the plan. A plan and the consents or joinders of unit owners and, if required, consents or joinders of mortgagees must be recorded in the public records of each county in which any portion of the condominium is located. The plan is effective only upon recordation or at a later date specified in the plan. The failure to provide notice to tenants as required by this subsection does not invalidate the plan of termination if adopted. If the plan of termination fails to receive the required approval, the plan shall not be recorded and a new attempt to terminate the condominium may not be proposed at a meeting or by solicitation for joinder and consent for 180 days after the date that such failed plan of termination was first given to all unit owners in the

manner as provided in this subsection.

(10) PLAN OF TERMINATION; REQUIRED PROVISIONS.—The plan of termination must specify:

- (a) The name, address, and powers of the termination trustee.
- (b) A date after which the plan of termination is void if it has not been recorded.

(c) The interests of the respective unit owners in the association property, common surplus, and other assets of the association, which shall be the same as the respective interests of the unit owners in the common elements immediately before the termination, unless otherwise provided in the declaration.

(d) The interests of the respective unit owners in any proceeds from the sale of the condominium property, or the manner in which unit owners will be compensated for their condominium parcels. The plan of termination may apportion those proceeds pursuant to any method prescribed in subsection (12). If, pursuant to the plan of termination, condominium property or ~~real property owned by the association property~~ is to be sold following termination, the plan must provide for the sale and may establish any minimum sale terms.

(e) Any interests of the respective unit owners in insurance proceeds or condemnation proceeds that are not used for repair or reconstruction at the time of termination. Unless the declaration expressly addresses the distribution of insurance proceeds or condemnation proceeds, the plan of termination may apportion those proceeds pursuant to any method prescribed in subsection (12).

(11) PLAN OF TERMINATION; OPTIONAL PROVISIONS; CONDITIONAL TERMINATION; WITHDRAWAL; SCRIVENER'S ERRORS--

(a) Unless the plan of termination may provide that each expressly authorizes a unit owner retains or other person to retain the exclusive right of possession to the to possess that portion of the real estate which formerly constituted the unit if the plan specifies the after termination or to use the common elements of the condominium after termination, then all such rights in the unit or common elements shall automatically terminate on the effective date of termination. Unless the plan expressly provides otherwise, all leases, occupancy agreements, subleases, licenses or other agreements for the use or occupancy of any unit or common elements in the condominium shall automatically terminate on the effective date of termination subject to paragraph 2(a). In the event the plan expressly authorizes a unit owner or other person to retain exclusive right to possess that portion of the real estate that formerly constituted the unit or to use the common elements of the condominium after termination, then the plan must specify the terms and conditions of possession. In a partial termination, the plan of termination as specified in subsection (10) must also identify the units that survive the partial termination and provide that such units remain in the condominium form of ownership pursuant to an amendment to the declaration of condominium or an amended and restated declaration. In a partial termination, title to the surviving units and common elements that remain part of the condominium property specified in the plan of termination remain vested in the ownership shown in the public records and do not vest in the termination trustee.

(b) In a conditional termination, the plan must specify the conditions for termination. A conditional plan does not vest title in the termination trustee until the plan and a certificate executed by the association with the formalities of a deed, confirming that the conditions in the conditional plan have been satisfied or waived by the requisite percentage of the voting interests, have been recorded. ~~In a partial termination, the plan does not vest title to the surviving units or common elements that remain part of the condominium property in the termination trustee.~~

(c) Unless otherwise provided in the plan of termination, at any time prior to the sale of the condominium property, a plan may be withdrawn or modified ab initio by the affirmative vote or written agreement of not less than the same percentage of voting interests in the condominium as was required for the initial approval of the plan.

(d) Upon the discovery of a scrivener's error in the plan of termination, the termination trustee may record an amended plan or an amendment to the plan for the purpose of correcting such scrivener's error, and such amended plan or amendment to the plan need only be executed by the termination trustee in the manner for execution of a deed.

(12) ALLOCATION OF PROCEEDS OF SALE OF CONDOMINIUM PROPERTY.---

(a) Unless the declaration expressly provides for the allocation of the proceeds of sale of condominium property, the plan of termination ~~must first apportion the proceeds between the aggregate value of all~~ may require separate valuations for the units and the value of the common elements, based on their respective fair market values immediately before the termination, as determined by one or more independent appraisers selected by the association or termination trustee ~~but in the absence of such provision it shall be presumed that the common elements have no independent value, but rather that their value is incorporated into the valuation of the units.~~ In a partial termination, the aggregate values of the units and common elements that are being terminated must be separately determined, and the plan of termination must specify the allocation of the proceeds of sale for the units and common elements being terminated.

(b) The portion of proceeds allocated to the units shall be ~~further~~ apportioned among the individual units. The apportionment is deemed fair and reasonable if it is ~~so~~ determined ~~by the unit owners, who may approve the plan of termination~~ by any of the following methods:

1. The respective values of the units based on the fair market values of the units immediately before the termination, as determined by one or more independent appraisers selected by the association or termination trustee;

2. The respective values of the units based on the most recent market value of the units before the termination, as provided in the county property appraiser's records; or

3. The respective interests of the units in the common elements specified in the declaration immediately before the termination.

(c) The methods of apportionment in paragraph (b) do not prohibit any other method of apportioning the proceeds of sale allocated to the units or any other method of valuing the units agreed upon in the plan of termination. ~~The~~ Any portion of the proceeds separately allocated to

the common elements shall be apportioned among the units based upon their respective interests in the common elements as provided in the declaration.

(d) Liens that encumber a unit shall, unless otherwise provided in the plan of termination, be transferred to the proceeds of sale of the condominium property and the proceeds of sale or other distribution of association property, common surplus, or other association assets attributable to such unit in their same priority. In a partial termination, liens that encumber a unit being terminated must be transferred to the proceeds of sale of that portion of the condominium property being terminated which are attributable to such unit. The proceeds of any sale of condominium property pursuant to a plan of termination may not be deemed to be common surplus or association property. The holder of a lien that encumbers a unit at the time of recording a plan, is required, within 30 days following written request from the termination trustee, to deliver to the termination trustee a statement confirming the outstanding amount of any obligations of the unit owner secured by the lien.

(e) The termination trustee shall have the right to setoff against and reduce the share of the termination proceeds allocated to a unit by the following amounts, which may include attorney fees and costs in each instance:

1. All unpaid assessments, taxes, late fees, interest, fines, charges and all other amounts due and owing the association associated with the unit, its owner, the owner's family members, guests, tenants, occupants, licensees, invitees or others.

2. All costs of clearing title to the owner's unit, including without limitation, locating lienors, obtaining statements from such lienors confirming the outstanding amount of any obligations of the unit owner, and paying all mortgages and other liens, judgments and encumbrances and filing suit to quiet title or remove title defects.

3. All costs of removing the owner, the owner's family members, guests, tenants, occupants, licensees, invitees or others from the unit in the event an owner, or owner's family members, tenants, occupants, or others fail to vacate a unit as required by the plan.

4. All costs arising from or related to such other breach of the plan by an owner, the owner's family members, guests, tenants, occupants, licensees, invitees or others.

5. All costs arising out of or related to removal and storage of all personal property remaining in a unit other than personal property owned by the association such that the unit can be delivered vacant and clear of the owner, the owner's family members, guests, tenants, occupants, licensees, invitees or others as required by the plan.

6. All costs arising out of or related to the appointment and activities of a receiver or attorney ad litem acting for such owner in the event that an owner cannot be located

(13) TERMINATION TRUSTEE.--- The association shall serve as termination trustee unless another person is appointed in the plan of termination. If the association is unable, unwilling, or fails to act as trustee, any unit owner may petition the court to appoint a trustee. Upon the date of the recording or at a later date specified in the plan, title to the condominium property vests in the trustee. Unless prohibited by the plan, the termination trustee shall be vested

with the powers given to the board pursuant to the declaration, bylaws, and subsection (6Z). If the association is not the termination trustee, the trustee's powers shall be coextensive with those of the association to the extent not prohibited in the plan of termination or the order of appointment. If the association is not the termination trustee, the association shall transfer any association property to the trustee. If the association is dissolved, the trustee shall also have such other powers necessary to conclude the affairs of the association.

(14) TITLE VESTED IN TERMINATION TRUSTEE.— If termination is pursuant to a plan of termination under subsection (2) or subsection (3), title to the condominium property being terminated vests in the termination trustee when the plan is recorded or at a later date specified in the plan. Unless otherwise provided in the plan, upon becoming effective, a plan shall be deemed a land trust pursuant to s. 689.071. The unit owners thereafter become the beneficiaries of the proceeds realized from the plan of termination as set forth in the plan as beneficiaries under a land trust. Unless otherwise provided in the plan, the interests of beneficiaries under the plan shall be deemed personal property only. The termination trustee may deal with the condominium property being terminated or any interest therein if the plan confers on the trustee the authority to protect, conserve, ~~manage, sell, or lease, encumber, or otherwise manage and~~ dispose of the condominium property. The trustee, on behalf of the unit owners, may contract for the sale of real property being terminated, but the contract is not binding on the unit owners until the plan is approved pursuant to subsection (23) or subsection (34).

(15) NOTICE.—

(a) Within 30 days after a plan of termination has been recorded, the termination trustee shall deliver ~~by certified mail, return receipt requested,~~ notice to all unit owners, ~~tenants reflected in the association's records,~~ lienors of the condominium property, and lienors of all units at their last known addresses that a plan of termination has been recorded. Notice does not have to be given to tenants of timeshare or hotel room units. The failure to provide any notice to tenants as required by this paragraph does not invalidate the plan of termination. The notice must include the book and page number of the public records in which the plan was recorded, notice that a copy of the plan shall be furnished upon written request, and notice that the unit owner or lienor has the right to contest the ~~fairness of the plan.~~ plan in accordance with subsection (16). Following the delivery of the notices required by this section the trustee must record a certificate in the public records of the county where the condominium is located certifying that such notice was given. The certificate shall be deemed presumptive evidence, binding upon unit owners and lienors, of the compliance with the requirements of this paragraph, and may be relied upon by third parties.

(b) The trustee, within 90 days after the effective date of the plan, shall provide to the division a certified copy of the recorded plan, the date the plan was recorded, and the county, book, and page number of the public records in which the plan is recorded.

(c) Other than notices required pursuant to paragraph (3)(c), and subsection (8) , which shall be provided in the manner set forth therein, any notice required to be provided by the termination trustee to a unit owner or lienholder must be given by certified or registered mail, by national or international commercial delivery service or by electronic transmission to those consenting to receive notice by such means, to the address of the owner or lienholder contained

in the official records of the association, or if no such address exists (or if the association's records are not available to the trustee) to the address for the unit owner set forth in the office of the tax collector for tax notices and to the address for the lienholder set forth on the recorded mortgage or lien or any recorded assignment thereof establishing the lien in favor of the lienholder. Notices, requests or other communications to the termination trustee shall be given to the address of the termination trustee if specified in the plan of termination, or, if not, to the address of the association. Notices, requests or other communication to the association must be given to the address of the association either specified in the plan of termination or appearing in the public records.

(d) Any notice required by this section shall be deemed given at the earlier of the time of actual receipt or 5 days after being sent.

(16) RIGHT TO CONTEST.— A unit owner or lienor ~~may contest~~ who timely objects to a plan of termination pursuant to paragraph (4)(b) of this section may contest the plan by initiating a summary procedure pursuant to s. 51.011 within 90 days after the date the plan is recorded. A unit owner or lienor may only contest the fairness and reasonableness of the apportionment of the proceeds from the sale among the unit owners, or that the required vote to approve the plan was not obtained. A unit owner or lienor who does not contest the plan within the 90-day period is barred from asserting or prosecuting a claim against the association, the termination trustee, any unit owner, or any successor in interest to the condominium property. In an action contesting a plan of termination, the person contesting the plan has the burden of pleading and proving that the apportionment of the proceeds from the sale among the unit owners was not fair and reasonable or that the required vote was not obtained. The apportionment of sale proceeds is presumed fair and reasonable if it was determined pursuant to the methods prescribed in subsection (12). The court shall determine the rights and interests of the parties and order the plan of termination to be implemented if it is fair and reasonable in the sale proceeds. If the court determines that the plan of termination apportionment of sale proceeds is not fair and reasonable, the court may void the plan or may modify the plan to apportion the proceeds in a fair and reasonable manner pursuant to this section based upon the proceedings and order the modified plan of termination to be implemented. ~~If the court determines the plan was not properly approved, it may void the plan or grant such other relief as it deems just and proper.~~ Any challenge to a plan, other than a challenge that the required vote was not obtained, does not affect title to the condominium property or the vesting of the condominium property in the trustee, but shall only be a claim against the proceeds of the plan. In any such action, the prevailing party shall recover reasonable attorney's fees and costs.

(17) DISTRIBUTION.—

(a) Following termination of the condominium, the condominium property, association property, common surplus, and other assets of the association shall be held by the termination trustee pursuant to the plan of termination, as trustee for unit owners and holders of liens on the units, in their order of priority unless otherwise set forth in the plan of termination.

(b) Not less than 30 days before the first distribution, the termination trustee shall ~~deliver by certified mail, return receipt requested,~~ give a notice of the estimated distribution to all unit owners, lienors of the condominium property, and lienors of each unit at their last known

addresses stating a good faith estimate of the amount of the distributions to each ~~class~~ unit and the procedures and deadline for notifying the termination trustee of any objections to the amount. The deadline notice must advise of the estimated deductions that may be made pursuant to subparagraphs (c)5 and (c)6. The notice may also set forth procedures and a deadline for lienors to verify their liens or deliver to the trustee a statement confirming the outstanding amount of any obligations of the unit owner secured by the lien, and for unit owners to object to the validity of any lien on the unit's share of the proceeds. The deadline for responding or objecting must be at least 4530 days after the date the notice was mailed. The notice may be sent with or after the notice required by subsection (15). If a unit owner or lienor files a timely objection with the termination trustee, the trustee need not distribute the funds and property allocated to the respective unit owner or lienor until the trustee has had a reasonable time to determine the validity of the adverse claim. In the alternative, the trustee may interplead the unit owner, lienor, and any other person claiming an interest in the unit and deposit the funds allocated to the unit in the court registry, at which time the condominium parcel, the condominium property, association property, common surplus, and other assets of the association are free of all claims and liens of the parties to the suit. In an interpleader action, the trustee and prevailing party may recover reasonable attorney's attorney fees and costs.

(c) The proceeds from any sale of condominium property or association property and any remaining condominium property or association property, common surplus, and other assets shall be distributed in the following priority:

1. To pay the ~~reasonable~~ termination trustee's ~~reasonable~~ fees and costs and ~~reasonable~~ accounting fees and costs, including the cost of conveying the condominium property, delivering good and marketable title to same, and delivering the property free of any occupancy not permitted pursuant to the plan of termination.

2. To lienholders of liens recorded prior to the recording of the declaration who did not join in or subordinate to the declaration and which liens continue to encumber the former condominium property in its entirety.

3. To first mortgage lienholders on units to the extent necessary to satisfy their liens; however, the distribution may not exceed a unit owner's share of the proceeds:

4. To lienholders of liens of the association which have been consented to under s. 718.121(1).

5. To unsecured creditors of the association, as their interests appear.

6. To the holders of liens on units to the extent necessary to satisfy their liens in their order of priority; however, the distribution may not exceed a unit owner's distribution pursuant to the plan. Any attorney fees and costs incurred by the termination trustee in connection with such a distribution must be deducted before payment to the lienor. The lienor may be required by the trustee to record a satisfaction or release of lien on a unit as a condition of receiving proceeds.

7. ~~6.~~ To unit owners, the proceeds of any sale of condominium property, subject to satisfaction of liens on each unit in their order of priority, in shares specified in the plan of

termination, unless objected to by a unit owner or lienor as provided in paragraph (b). Any attorney fees and costs incurred by the termination trustee in determining a unit owner's or lienor's entitlement to the proceeds must be deducted from the unit's share of the proceeds before payment to the unit owner or lienor. Such fees and costs include, but are not limited to, those related to obtaining letters on the unpaid balance of the amount due and necessary corrective instruments, and costs of delivering the unit free of any occupancy or personal property. A lienor may be required by the trustee to record a satisfaction or release of lien on a unit as a condition of receiving proceeds.

8. ~~7-~~To unit owners, the remaining condominium property, subject to satisfaction of liens on each unit in their order of priority, in shares specified in the plan of termination, unless objected to by a unit owner or a lienor as provided in paragraph (b).

9. ~~8-~~To unit owners, the proceeds of any sale of association property, the remaining association property, common surplus, and other assets of the association, subject to satisfaction of liens on each unit in their order of priority, in shares specified in the plan of termination, unless objected to by a unit owner or a lienor as provided in paragraph (b).

(d) After determining that all known debts and liabilities of an association in the process of termination have been paid or adequately provided for, the termination trustee shall distribute the remaining assets pursuant to the plan of termination. If the termination is by court proceeding or subject to court supervision, the distribution may not be made until any period for the presentation of claims ordered by the court has elapsed.

(e) If proceeds cannot be delivered to a lienor because the lienor has failed to comply with reasonable conditions imposed by the termination trustee as provided in paragraph (b), or because the lienor may not be found after the exercise of the due diligence required for service of process by publication under Ch. 49, Fla. Stat., the trustee may interplead the unit owner, lienor, and any other person claiming an interest in the proceeds and deposit the funds allocated to the unit in the court registry. In an interpleader action, the trustee may recover reasonable attorney fees and costs from the amounts held.

(f) Any proceeds which cannot be delivered to a unit owner because the unit owner has failed to satisfy reasonable requests by the termination trustee to verify the owner's entitlement to the proceeds, or if the trustee after the exercise of the due diligence required for service of process by publication under Ch. 49, Fla. Stat., is unable to deliver the share of the proceeds to the unit owner, must be treated as unclaimed property pursuant to s. 717.1125.

(eg) Assets held by an association upon a valid condition requiring return, transfer, or conveyance, which condition has occurred or will occur, shall be returned, transferred, or conveyed in accordance with the condition. The remaining association assets shall be distributed pursuant to paragraph (c).

(fh) Distribution may be made in money, property, or securities and in installments or as a lump sum, if it can be done fairly and ratably and in conformity with the plan of termination. Distribution shall be made as soon as is reasonably consistent with the beneficial liquidation of the assets.

(18) ASSOCIATION STATUS.—The termination of a condominium does not change the corporate status of the association that operated the condominium property. The association continues to exist to conclude its affairs, prosecute and defend actions by or against it, collect and discharge obligations, dispose of and convey its property, and collect and divide its assets, but not to act except as necessary to conclude its affairs. In a partial termination, the association may continue as the condominium association for the property that remains subject to the declaration of condominium.

(19) CREATION OF ANOTHER CONDOMINIUM.—The termination or partial termination of a condominium does not bar the filing of a new declaration of condominium by the termination trustee, or the trustee's successor in interest, for the terminated property or any portion thereof. The partial termination of a condominium may provide for the simultaneous filing of an amendment to the declaration of condominium or an amended and restated declaration of condominium by the condominium association for any portion of the property not terminated from the condominium form of ownership.

(20) EXCLUSION.—This section does not apply to the termination of a condominium incident to a merger of that condominium with one or more other condominiums under s. 718.110(7).

Section 2. Subsection (3) is added to section 718.1265, Florida Statutes, to read:

(3) (a) If, after a natural disaster, the identity of the directors or their right to hold office is in doubt, if they are deceased or unable to act, if they fail or refuse to act, or if they cannot be located, any interested person may petition the circuit court to determine the identity of the directors or, if found to be in the best interests of the unit owners, to appoint a receiver to conclude the affairs of the association after a hearing following notice to such persons as the court directs. Lienholders shall be given notice of the petition and have the right to propose persons for the consideration by the court as receiver. If a receiver is appointed, the court shall direct the receiver to provide to all unit owners written notice of his or her appointment as receiver. Such notice shall be mailed or delivered within 10 days after the appointment. Notice by mail to a unit owner shall be sent to the address used by the county property appraiser for notice to the unit owner. The appointment of the receiver is subject to the bonding requirements of such order. The order shall also provide for the payment of a reasonable fee to the receiver from the sources identified in the order, which may include rents, profits, incomes, maintenance fees, or special assessments collected from the condominium property.

(b) The receiver shall have all powers of the board pursuant to the declaration, bylaws, and s.718.117(6), and any other powers that are necessary to conclude the affairs of the association and are set forth in the order of appointment and may record a plan of termination as the termination trustee.

(c) The receiver shall prepare reports each quarter following the approval of a plan of termination setting forth the status and progress of the termination, costs and fees incurred, the date the termination is expected to be completed, and the current financial condition of the association, receivership, or trusteeship and provide copies of the report by regular mail to the unit owners and lienors at the mailing address provided to the association by the unit owners and

the lienors.

Section 3. This act shall take effect _____ [date] _____.

**PROPOSAL TO AMEND FLORIDA CONDOMINIUM LAW SECTION 718.117 PERTAINING
TO THE TERMINATION OF CONDOMINIUMS.**

SUMMARY

Since 2007, Section 718.117 has been used by numerous condominium associations and unit owners to effectuate a partial or total termination of condominiums. The experience has generally been positive although a few recent terminations have revealed potential inequities, in implementing a termination under Section 718.117. Operational issues often arise with respect to both procedural rights, time limitations, powers, rights and duties of a termination trustee, and the extent and rights of lien holders and unit owners with respect to payment priority and property valuations. Although in most instances, practitioners and condominium associations are able to eventually work through the issues and procedural questions, potential inequities, and a clearer and more concise statutory framework is warranted at this point in time, to protect unit owners, and to also provide more certainty and predictability to the process.

Proposed Changes:

- A. New sub-section (2) provides substantial significant protections to unit owners whose homesteads are in residential condominiums being terminated pursuant to the optional termination provisions of 718.117(4) if, at the time of recording of the plan of termination, at least 80% of the total voting interests are owned by a single bulk owner entity or related entities ("Bulk Owner"), and no sale of the terminated condominium property as a whole to an unrelated third party is contemplated:
- i. a right to rent and remain in possession of the former owner's unit for up to 12 months post-termination, if the property is held out for rent to the public.
 - ii. a requirement that, prior to filing a plan of termination with the Division of Florida Condominiums, a Bulk Owner must offer to purchase homestead units at a purchase price of not less than the greater of 120% of the unit's assessed value as set forth in the county's records or 80% of the original purchase price paid by such unit owner.
 - iii. a requirement that the Bulk Owner prior to adoption file both a plan of termination with the Division of Florida Condominiums, Timeshares and Mobile Homes, together with written disclosures regarding the identity of the Bulk Owner, its relationship to any board members, and evidence that all monetary obligations of the Bulk Owner to the association have been paid in full. The filing must also include a copy of the offers made by the Bulk Owner to purchase the homestead units (if any).
- B. Sub-section 4(b) has been revised to establish a clear framework to determine whether more than 10 percent of the total voting interests have rejected a plan of termination.
- C. Sub-section (5) has been revised to confirm that an amendment to a condominium declaration to conform to section 718.117 is not subject to 718.110(4).
- D. Sub-section (6) has been revised to clarify an unintended ambiguity related to rights of mortgagees to contest a plan of termination.
- E. Sub-section (7) has been revised to confirm that the association of a terminated condominium continues to exist as a corporate entity and its board members may be removed or recalled by the unit owners.

- F. Old sub-section (7), pertaining to natural disasters, has been relocated to section of 718.1265, which deals with natural disasters.
- G. Sub-section (8), pertaining to reports, has been revised to establish the outside date for the termination trustee to provide reports at the date of the initial distribution of the termination proceeds by which time the property would be sold.
- H. Sub-section (9) has been revised to require that notice of a proposed termination also be provided to tenants (excluding those in timeshares and hotel condominiums), and that a consent or joinder to a plan is valid for 1 year, unless expressly revoked.
- I. Sub-section (11) has been revised to clarify that, unless otherwise provided in a plan of termination, all rights of owners to use/occupy units and/or the common elements terminate on the effective date of termination (unless subject to Section 2(a)).
- J. New sub-section 11(c) gives unit owners the ability to modify or withdraw a plan of termination at any time prior to sale of the property.
- K. Sub-section 11(d) has been added to permit a termination trustee to amend a plan of termination to correct a scrivener's error (this concept mirrors similar rights granted to the association to correct scrivener's errors in condominium declarations without a unit owner vote).
- L. Sub-section (12) has been revised to permit the elimination of separate valuations for the units and common elements (in most condominiums the value of the common elements is already reflected in the value of the applicable units). This change will allow a less cumbersome, less contentious and less expensive appraisal.
- M. Sub-section (12)(c) has been revised to permit a plan of termination to utilize alternate valuation methods (creating the ability for unit owners to avoid what could be an expensive appraisal process).
- N. Sub-section (12)(d) has been revised to require lien holders to provide a statement of account confirming to the termination trustee the amount that such lienholder is owed.
- O. New sub-section (12)(e) has been added to provide the termination trustee with the ability to offset a unit owner's share of the termination proceeds against unpaid assessments, taxes, the cost of clearing title defects, and other expenses for which such unit owner should be responsible for paying.
- P. Sub-section (14) has been revised to create a statutory litmus test for determining that a plan of termination is deemed a land trust (this change was encouraged by representatives from the title insurance industry).
- Q. Sub-section (15) enhances and clarifies the notice provisions and procedures applicable to the termination process.
- R. Sub-section (16) clarifies the manner by which a unit holder or lien holder (who has timely objected to a plan of termination) may thereafter contest a plan and provides that in any contest, if the court determines the plan was not properly approved, it may void the plan or grant other relief.
- S. Sub-section (17) clarifies and strengthens the procedures by which distributions of termination proceeds are to be made by the termination trustee.
- T. The change to Section 718.1265, dealing with natural disasters, moves the provision formerly in Section 718.117(7) (which deals with natural disasters) into the appropriate section.

LEGISLATIVE POSITION REQUEST FORM

GOVERNMENTAL AFFAIRS OFFICE

Date Form Received _____

GENERAL INFORMATION

Submitted By Elaine M. Bucher, Chair, Estate and Trust Tax Planning Committee of the Real Property Probate and Trust Section
(List name of the section, division, committee, bar group or individual)

Address 777 S. Flagler Dr., Ste. 500 East, West Palm Beach, FL 33401 –
Telephone: (561) 650-0693

Position Type The Estate and Trust Tax Planning Committee of the Real Property, Probate and Trust Law Section of The Florida Bar
(Florida Bar, section, division, committee or both)

CONTACTS

Board & Legislation Committee Appearance

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Peter M. Dunbar, Dean Mead, 215 S. Monroe Street, Suite 815, Tallahassee, FL 32301 Telephone 850-999-4100

Martha J. Edenfield, Dean Mead, 215 S. Monroe Street, Suite 815, Tallahassee, FL 32301 Telephone 850-999-4100

Appearances before Legislators

(List name and phone # of those appearing before House/Senate Committees)

Meetings with Legislators/staff

(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

Support

Oppose

Technical Assistance

Other

Proposed Wording of Position for Official Publication:

Support amending the Florida Uniform Transfer to Minors Act, Chapter 710, Florida Statutes, to allow for certain custodianships to terminate when the minor attains age 25, and to provide for a procedure to qualify transfers to certain custodianships that terminate when the minor attains age 25 for the federal gift tax annual exclusion.

Reasons For Proposed Advocacy:

The proposed amendments to the Florida Uniform Transfers to Minors Act will give Floridians the option, in certain circumstances, to use custodianships that do not terminate until the minor's attainment of age 25, rather than the current age 21. Floridians will thus benefit from the advantages of the statutory protections of UTMA for college-aged beneficiaries without the expense and complexity of formal trust arrangements.

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

(Indicate Bar or Name Section) (Support or Oppose) (Date)

Others

(May attach list if more than one)

(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

Tax Section, TFB

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

Florida Bankers Association

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

Elder Law Section, TFB

(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 (850) 561-5662 or 800-342-8060, extension 5662.

1 A bill to be entitled

2 An act amending s. 710.102 to define the term “general power of appointment;”
3 amending s. 710.105 to treat a certain transfer from a trust as having been made
4 directly by the grantor of the trust; amending s. 710.123 to permit custodianships
5 established by irrevocable gift and by irrevocable exercise of power of appointment
6 to terminate when the minor attains age 25, subject to the minor’s right in certain
7 such custodianships to compel immediate distribution of the custodial property upon
8 attaining age 21; and further amending s. 710.123 to limit liability of financial
9 institutions for certain distributions of custodial property .

10 Section 1. Section 710.102, Florida Statutes, is amended to read:

11 710.102 Definitions.—As used in this act, the term:

12 (1) “Adult” means an individual who has attained the age of 21 years.

13 (2) “Benefit plan” means a retirement plan and may include, but is not limited
14 to, any pension, profit-sharing, stock-bonus, or stock-ownership plan or individual
15 retirement account.

16 (3) “Broker” means a person lawfully engaged in the business of effecting
17 transactions in securities or commodities for the person’s own account or for the
18 account of others.

19 (4) “Conservator” means a person appointed or qualified by a court to act as
20 general, limited, or temporary guardian of a minor’s property or a person legally
21 authorized to perform substantially the same functions.

22 (5) “Court” means the circuit court.

23 (6) "Custodial property" means any interest in property transferred to a
24 custodian under this act and the income from and proceeds of that interest in
25 property.

26 (7) "Custodian" means a person so designated under s. 710.111 or a successor
27 or substitute custodian designated under s. 710.121.

28 (8) "Financial institution" means a bank, trust company, savings institution, or
29 credit union, chartered and supervised under state or federal law.

30 (9) "General power of appointment" means a power of appointment described
31 in s. 732.2025(3).

32 ~~(910)~~ "Legal representative" means an individual's personal representative or
33 conservator.

34 ~~(4011)~~ "Member of the minor's family" means the minor's parent, stepparent,
35 spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half
36 blood or by adoption.

37 ~~(4112)~~ "Minor" means an individual who has not attained the age of 21 years.

38 ~~(4213)~~ "Person" means an individual, corporation, organization, or other legal
39 entity.

40 ~~(4314)~~ "Personal representative" means an executor, administrator, successor
41 personal representative, or special administrator of a decedent's estate or a person
42 legally authorized to perform substantially the same functions.

43 ~~(4415)~~ "Qualified minor's trust" means a trust that meets the requirements of
44 s. 2503(c) of the Internal Revenue Code of 1986, as amended.

45 (4516) "State" includes any state of the United States, the District of
46 Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject
47 to the legislative authority of the United States.

48 (4617) "Transfer" means a transaction that creates custodial property under s.
49 710.111.

50 (4718) "Transferor" means a person who makes a transfer under this act.

51 (4819) "Trust company" means a financial institution, corporation, or other
52 legal entity, authorized to exercise general trust powers.

53 Section 2. Section 710.105, Florida Statutes, is amended to read:

54 **710.105 Transfer by gift or exercise of power of appointment**

55 A person may make a transfer by irrevocable gift to, or the irrevocable exercise
56 of a power of appointment in favor of, a custodian for the benefit of a minor pursuant
57 to s. 710.111. Notwithstanding s. 710.106, a transfer by irrevocable gift from a trust
58 over which the grantor has at the time of transfer a "right of revocation" as defined
59 in s. 733.707(3)(e) shall be treated for all purposes of this act as a transfer made
60 directly by the grantor of the trust.

61 Section 3. Section 710.123, Florida Statutes, is amended to read:

62 **710.123 Termination of custodianship.**

63 (1) The custodian shall transfer in an appropriate manner the custodial
64 property to the minor or to the minor's estate upon the earlier of:

65 (1) ~~The minor's attainment of 21 years of age with respect to custodial~~
66 ~~property transferred under s. 710.105 or s. 710.106;~~

67 ~~(2) The minor's attainment of age 18 with respect to custodial property~~
68 ~~transferred under s. 710.107 or s. 710.108; or~~

69 ~~(3) The minor's death.~~

70 (a) The minor's attainment of 21 years of age with respect to custodial
71 property transferred under s. 710.105 or s. 710.106, but a transferor can, with
72 respect to such custodial property, create the custodianship so that it terminates on
73 the minor's attainment of 25 years of age;

74 (b) The minor's attainment of age 18 with respect to custodial property
75 transferred under s. 710.107 or s. 710.108; or

76 (c) The minor's death.

77 (2) If the transferor of a custodianship described in subsection (1)(a) created
78 the custodianship to terminate upon the minor's attainment of 25 years of age, in the
79 case of a custodianship created by irrevocable gift or by irrevocable inter vivos
80 exercise of a general power of appointment, the minor nevertheless has the absolute
81 right to compel immediate distribution of the entire custodial property when the
82 minor attains the age of 21 years.

83 (3) As to a custodianship described in subsection (2), a transferor may provide,
84 by delivery of a written instrument to the custodian upon the creation of such
85 custodianship, that the minor's right to compel immediate distribution of the entire
86 custodial property will terminate upon the expiration of a fixed period that begins
87 with the custodian's delivery of written notice to the minor of the existence of such
88 right. To be effective to terminate the minor's right to compel an immediate
89 distribution of the entire custodial property when the minor attains 21 years of age,

90 the custodian's written notice must be delivered not more than 30 days before, and
91 not later than 30 days after, the date upon which the minor attains age 21, and the
92 fixed period specified in the notice for the termination of such right cannot expire
93 before the later of 30 days after the minor attains age 21 or 30 days after the
94 custodian delivers such notice.

95 (4) Notwithstanding s. 710.102(11), if the transferor created the custodianship
96 to terminate at age 25, then solely for purposes of the application of the termination
97 provisions of this section, "minor" means an individual who has not attained the age
98 of 25 years.

99 (5) No financial institution has any liability to any custodian or minor for
100 distribution of custodial property to or for the benefit of the minor in a custodianship
101 created by irrevocable gift or by irrevocable exercise of a general power of
102 appointment when the minor attains the age of 21 years.

103 Section 4. This act shall take effect upon becoming law.

104 5113936.00012

Real Property, Probate and Trust Law Section of The Florida Bar
White Paper
Proposed Amendments to
Florida Uniform Transfers to Minors Act, Ch. 710, Florida Statutes

I. SUMMARY

The proposed legislation would modify Florida's Uniform Transfers to Minors Act, Chapter 710, Florida Statutes (the "Act"), to allow transferors to create custodianships that terminate when the minor attains age 25, and not age 21, in certain circumstances.

II. CURRENT SITUATION

Currently, the Act provides that assets transferred:

- (1) by gift or exercise of power of appointment or a fiduciary pursuant to an authorizing provision in a will or a trust may be held by the custodian until the minor attains age 21; and
- (2) by an obligor (including a pension plan or a person who owes the minor a liquidated debt), or by a fiduciary pursuant to a will or a trust without an authorizing provision, may be held by the custodian until the minor attains age 18.

III. EFFECT OF PROPOSED CHANGES GENERALLY

The proposed changes would, generally, amend the Act to permit a donor, a holder of a power of appointment or a fiduciary acting pursuant to an authorization in a will or a trust to provide that the custodianship will not terminate until the minor's attainment of age 25 (assuming that the minor does not die prior to that age).

In the case of custodianships created by lifetime gift or by lifetime exercise of a general power of appointment, the creation of a custodianship that terminates at age 25 would not qualify for the gift tax annual exclusion (currently \$14,000 per donee, per year) because the transfer would be of a future interest. The legislative proposal addresses this issue in a way to make the annual exclusion available if certain notice procedures are followed.

No changes are made to the provisions of the Act that apply to the termination age for custodianships created by an obligor or a conservator, or to those created by a fiduciary acting under a will or trust that lacks an authorizing provision.

Financial institutions may not be aware that a custodianship will not terminate until the minor attains age 25. The proposed statute protects them from liability for distribution of funds in all

custodianships created by inter vivos gift or inter vivos exercise of a general power of appointment when the minor attains age 21.

IV. ANALYSIS

At least seven states – Alaska, California, Nevada, Oregon, Pennsylvania, Tennessee, and Washington – have amended their versions of the Uniform Transfer to Minors Act to permit a custodian to hold assets until age 25 under certain circumstances. With the proposed modifications to the Act, Florida would join these states in providing its citizens the option of creating a custodianship for a minor that lasts until the minor attains age 25 (in certain circumstances). As a result, Floridians would be allowed to continue the advantages of the statutory protections of UTMA for beneficiaries until age 25, rather than being forced to bear the expense and complexity of establishing formal trust arrangements in order to protect these beneficiaries.

The proposed legislation would not authorize the creation of a custodianship for a person who has attained the age of 21 at the time for creation of the custodianship. Under the Act, a custodianship can only be created for a person who is a “minor,” defined in existing Section 710.102(11), Florida Statutes, as a person who has not attained age 21.

To qualify the creation of custodianships created by lifetime gift or by lifetime exercise of a general power of appointment for the gift tax annual exclusion, the minor for whose benefit such a custodianship was created has an absolute right to withdraw the custodial funds at age 21. The person who created the custodianship can, however, limit the minor’s withdrawal rights to exercise during a limited period of time after the minor attains the age of 21. To effectively do so, the custodian must provide the minor with written notice of his or her withdrawal rights; the notice must be given not more than 30 days before, or 30 days after, the minor’s 21st birth. The minor must exercise his or her withdrawal rights not later than 30 days after the minor’s 21st birthday, or 30 days after the custodian’s delivery of the notice, whichever occurs last.

The proposed change would be effective for custodianships created on or after the effective date of the statute.

V. FISCAL IMPACT ON STATE AND LOCAL GOVERNMENTS - None.

VI. DIRECT IMPACT ON PRIVATE SECTOR - None.

VII. CONSTITUTIONAL ISSUES - None apparent.

VIII. OTHER INTERESTED PARTIES - The Tax and Elder Law Sections of The Florida Bar and the Florida Bankers Association.

BUDGET 15-16
Real Property Probate Trust Law Section

Account	12-13	13-14	14-15	14-15	15 - 16
	Actual	Actual	Budget	Projected Actual	Proposed Budget
RPPTL GENERAL SECTION BUDGET					
REVENUE	851,088	1,194,837	1,016,893	1,010,599	1,030,340
31431 Dues	481,430	583,890	580,000	580,000	585,000
31432 Affiliate Dues	3,440	4,920	3,000	3,200	4,000
31433 Dues-Retained TFB Ge	(170,276)	(172,483)	(168,000)	(170,000)	(173,000)
31435 Admin Fee Adj	-	-	-	-	-
32191 CLE Courses	118,969	285,779	145,000	175,000	180,000
32293 Section Differential	29,376	29,963	30,000	30,000	30,000
34704 Actionline Advertisi	23,848	17,445	21,000	21,000	20,000
35201 Sponsorships	159,501	174,626	190,000	190,000	180,000
35603 Bd/Council Mtg Regis	167,550	190,036	197,000	180,000	180,000
36991 Allowances	-	-	-	-	-
38499 Investment Allocation	37,250	80,661	18,893	1,399	24,340 *
EXPENSES	846,518	899,126	977,965	980,051	1,019,520
36998 Credit Card Fees	2,556	3,916	3,700	3,700	3,700
51101 Employee Travel	3,763	11,164	5,037	6,767	6,500
71001 Telephone/Direct	1,757	1,103	1,752	1,500	1,320
71005 Internet Charges	-	174	-	58	-
81411 Promotional Printing	10	842	-	-	-
84001 Postage	2,455	278	1,500	1,500	1,500
84002 Printing	538	737	300	500	500
84006 Newsletter	61,132	59,914	47,500	47,500	47,500
84009 Supplies	-	603	200	500	500
84010 Photocopying	67	64	150	200	200
84015 Officers Conference	857	2,473	800	800	2,500
84016 Scrivener	-	-	5,000	5,000	5,000
84051 Officers Travel Expe	3,145	2,674	3,000	3,000	3,000
84054 CLE Speaker Expense	7,084	87	4,000	4,000	1,000
84061 Reception	-	3,444	-	-	-
84101 Committee Expenses	74,083	50,332	80,000	80,000	60,000
84102 Public Info & Websit	-	4,389	-	-	15,000
84106 Realtor Relations	2,150	2,150	3,500	3,500	3,500
84107 Diversity Initiative	13,813	3,273	12,500	12,500	12,000
84111 At Large Member Prog	2,926	2,171	5,500	5,500	5,000
84115 Entertainment	-	816	-	-	-
84201 Board Or Council Mee	405,496	499,470	460,000	460,000	500,000
84216 Strategic Planning	-	11,272	-	-	-
84238 Council Mtg Recreati	5,800	-	-	-	-
84239 Hospitality Suite	28,556	9,607	20,000	20,000	20,000
84279 Council Members Hand	3,224	1,820	3,000	3,000	3,500

BUDGET 15-16
Real Property Probate Trust Law Section

Account	12-13	13-14	14-15	14-15	15 - 16
	Actual	Actual	Budget	Projected Actual	Proposed Budget
84310 Law School Liaison	2,363	1,695	5,500	5,500	5,500
84322 Fellowships-Exc Cou	10,099	16,480	20,000	20,000	20,000
84330 Leadrshp Acad	-	3,359	7,000	7,000	7,000
84422 Website	59,857	51,551	50,000	50,000	30,000
84501 Legislative Consulta	110,000	110,000	110,000	110,000	110,000
84503 Legislative Travel	12,237	13,776	15,000	15,000	15,000
84524 Memorial Tributes	322	-	300	300	500
84701 Council Of Sections	-	300	300	300	300
84991 Special Projects	-	-	-	-	-
84998 Operating Reserve	-	-	88,926	88,926	100,000 **
84999 Miscellaneous	522	15	500	500	10,000
85037 Rfd Sponsorship	-	-	-	-	-
85064 Service Recognition	4,963	5,075	5,000	5,000	5,000
85085 Comp Book Expense	-	-	-	-	-
86327 IT Sys Support	-	989	-	-	-
86431 Meetings Administrat	3,757	4,862	9,000	9,000	9,000
86543 Graphics & Art	22,985	16,610	9,000	9,000	15,000
88239 Speakers Other Exp	-	1,552	-	-	-
88241 Outline Prt-Inhouse	1	14	-	-	-
88252 Course Credit Fee	-	75	-	-	-

* TBD - Based on 3% estimate given by the Florida Bar.

** The Florida Bar (per standing Bar Policy) requires each Section to budget an Operating Reserve for use for budget amendments or shortfalls, in accordance with their annual expenses.

BUDGET 15-16
Real Property Probate Trust Law Section

Account	12-13 Actual	13-14 Actual	14-15 Budget	14-15 Projected Actual	15 - 16 Proposed Budget
RPPTL - CONVENTION					
REVENUE	37,940	64,204	52,000	52,000	62,000
32001 Registrations	21,090	58,304	45,000	45,000	55,000
35101 Exhibit Fees	-	5,900	7,000	7,000	7,000
35201 Sponsorships	16,850	-	-	-	- *
EXPENSES	140,345	139,396	142,436	144,436	141,550
36998 Credit Card Fees	448	111	800	800	800
51101 Employee Travel	1,116	1,437	1,636	1,636	2,000
61201 Equipment Rental	13,603	20,108	9,000	11,000	10,000
75401 Express Mail	51	-	-	-	-
84001 Postage	-	9	-	-	-
84002 Printing	-	193	-	-	250
84010 Photocopying	2	1	-	-	-
84061 Reception	35,283	26,824	-	-	-
84062 Luncheons	27,917	25,976	-	-	-
84069 Dinners	23,071	38,907	-	-	-
84075 Sponsorship Exp	-	483	-	-	-
84115 Entertainment	4,136	6,090	8,000	8,000	8,000
84201 Board Or Council Mee	-	-	-	-	-
84253 Sleeping Rooms	(6,664)	517	-	-	-
84999 Miscellaneous	100	-	-	-	-
86532 Advertising News	-	-	-	-	-
86543 Graphics & Art	266	-	500	500	500
86623 Registrars	2,783	-	2,500	2,500	-
88231 Speakers Travel	-	-	-	-	-
88233 Speakers Hotel	-	-	-	-	-
88239 Speakers Other Exp	-	-	-	-	-
88241 Outline Prt-Inhouse	268	-	-	-	-
88252 Course Credit Fee	-	-	-	-	-
88262 Meeting Meals	-	-	120,000	120,000	120,000
88263 Meeting Hospitality	5,378	2,975	-	-	-
88265 Refreshment Breaks	22,543	2,401	-	-	-
88269 Breakfast	10,044	13,364	-	-	-

* In Section's General Budget

BUDGET 15-16
Real Property Probate Trust Law Section

Account	12-13 Actual	13-14 Actual	14-15 Budget	14-15 Projected Actual	15 - 16 Proposed Budget
RPPTL - LEGISLATIVE UPDATE					
REVENUE	56,510	63,139	57,000	67,750	55,000
32001 Registrations	-	-	-	-	-
32006 Live Web Cast	6,250	11,055	12,500	12,500	12,000
32010 Legal Span On-line	6,735	12,219	7,000	15,000	4,500
32194 Cancellation Fee	-	-	-	-	-
32205 Compact Disc	21,385	22,365	18,500	18,500	16,000
32207 DVD	7,990	2,000	7,000	7,000	7,000
32301 Course Materials	2,900	2,000	3,000	2,000	3,000
35101 Exhibit Fees	11,250	13,500	9,000	12,750	12,500
EXPENSES	97,059	83,484	86,403	79,730	69,850
36998 Credit Card Fees	586	614	700	300	700
51101 Employee Travel	1,369	2,012	1,324	954	2,000
61201 Equipment Rental	15,296	11,923	18,000	18,000	15,000
75102 1st Class & Misc Mai	24	36	-	-	50
75401 Express Mail	478	375	-	304	500
81411 Promotional Printing	-	-	-	-	50
84001 Postage	161	-	50	-	-
84002 Printing	-	33	-	-	-
84009 Supplies	-	-	-	-	150
84010 Photocopying	-	-	-	-	50
84012 Registration Support	5,427	-	5,200	5,112	5,200
84061 Reception	3,132	-	2,100	2,100	1,500
84062 Luncheons	24,507	25,698	22,000	22,000	-
84253 Sleeping Rooms	-	(2,058)	-	-	-
84254 Speaker Gifts	2,562	3,346	2,580	1,320	2,500
84258 Web Services	2,638	3,095	3,500	-	-
84999 Miscellaneous	-	250	-	-	-
86200 Capitalized Course	-	(469)	-	-	-
86432 Time Taping Editing	2,960	3,090	-	-	4,000
86532 Advertising News	1,222	-	1,500	1,249	1,500
86543 Graphics & Art	532	766	599	141	500
86623 Registrars	3,201	5,258	-	-	-
88230 Speakers Expense	250	-	-	-	-
88231 Speakers Travel	-	229	-	-	-
88233 Speakers Hotel	4,140	2,299	3,000	2,000	3,000
88239 Speakers Other Exp	290	125	200	300	200
88241 Outline Prt-Inhouse	556	-	300	-	300
88242 Outline Prt-Contract	8,910	9,400	9,500	9,600	10,000

BUDGET 15-16
Real Property Probate Trust Law Section

Account	12-13	13-14	14-15	14-15	15 - 16
	Actual	Actual	Budget	Projected Actual	Proposed Budget
88252 Course Credit Fee	-	150	150	150	150
88265 Refreshment Breaks	11,060	9,867	5,200	5,200	12,000
88269 Breakfast	6,841	6,766	10,500	10,500	10,500
88281 A/V Ctr Dup/Prod	917	679	-	500	-

BUDGET 15-16
Real Property Probate Trust Law Section

Account	12-13 Actual	13-14 Actual	14-15 Budget	14-15 Projected Actual	15 - 16 Proposed Budget
RPPTL ATTORNEY TRUST OFFICER LIASON CONFERENCE					
REVENUE	60	233,097	-	-	448,000
32001 Registrations	-	134,928	-	-	260,000
32205 Compact Disc	-	3,465	-	-	6,000
32207 DVD	-	985	-	-	-
32301 Course Materials	60	1,260	-	-	2,000
35003 Ticket Events	-	10,359	-	-	20,000
35101 Exhibit Fees	-	29,850	-	-	60,000
35201 Sponsorships	-	52,250	-	-	100,000
					-
EXPENSES	3	246,584	-	-	442,600
36998 Credit Card Fees	1	2,599	-	-	5,200
41201 Contract Salaries	-	162	-	-	-
51101 Employee Travel	-	2,271	-	-	3,000
61201 Equip Rental	-	17,457	-	-	30,000
75102 1st Class & Misc Mai	-	-	-	-	-
75401 Express Mail	2	206	-	-	300
81412 Promo Mailing	-	14	-	-	2,000
84064 Golf Tourn Exp	-	-	-	-	16,000
86432 Time Taping Editing	-	8,401	-	-	20,000
86532 Advertising News	-	1,249	-	-	3,200
86543 Graphics & Art	-	906	-	-	3,000
86623 Registrars	-	4,059	-	-	8,000
88230 Speakers Expense	-	-	-	-	-
88231 Spkrs Travel	-	4,099	-	-	8,000
88232 Spkrs Meals	-	42	-	-	4,000
88233 Spkrs Hotel	-	5,560	-	-	8,000
88234 Spkr Honorarium	-	5,000	-	-	-
88239 Spkrs Oth Exp	-	216	-	-	-
88241 Outline Prt-Inhouse	-	1,910	-	-	4,000
88242 Outline Prt-Contract	-	2,270	-	-	5,000
88252 Course Credit Fee	-	425	-	-	1,500
88262 Mtg Meals	-	79,909	-	-	60,000
88263 Mtg Hospitality	-	109,619	-	-	170,000
88265 Refreshment Breaks	-	-	-	-	40,000
88269 Breakfast	-	-	-	-	50,000
88281 A/V Ctr Dup/Prod	-	210	-	-	400
89999 Other Operating Expense	-	-	-	-	1,000

12-13 Remnants of CLE

No ATO during 14-15

Two ATO conferences during fiscal 15-16 (August 2015 and June 2016)

BUDGET 15-16
Real Property Probate Trust Law Section

Account	12-13 Actual	13-14 Actual	14-15 Budget	14-15 Projected Actual	15 - 16 Proposed Budget
SUMMARY					
Beginning Fund Balance	843,909	705,581	892,267	892,267	811,356
Net Operations*	4,570	295,711	38,928	30,548	10,820
Net Operations Other**	(142,897)	(109,024)	(119,839)	(104,416)	(89,000)
Ending Fund Balance	705,582	892,268	811,356	818,399	733,176
Add back charge for reserve					100,000
Projected Ending Fund Balance					<u>833,176</u>

*Net Operations other than Legislative Update, Convention, and Attorney Trust Officer Conference

**Net Operations from Legislative Update, Convention, and Attorney Trust Officer Conference

**REAL PROPERTY, PROBATE AND TRUST LAW
INTEGRITY AWARENESS AND COORDINATION COMMITTEE**

Real Property, Probate and Trust Law Integrity Awareness and Coordination Committee

I. Purpose and Scope

For over fifty years the Real Property, Probate and Trust Law Section of The Florida Bar has served the members of the Section, the lawyers and the citizens of Florida by providing an organized forum to discuss and advance the law of Florida in the areas of real property, probate, trust and guardianship law. The Section now numbers over 60 substantive committees that provide in depth analysis of a widening area of issues. The work of these committees is the basis of the actions by the Section's Executive Council.

The Section's ability to effectively discharge its mission requires that the procedures it utilizes and the positions that it adopts are principled, free from the taint of personal or professional gain. The Section's reputation for substantive credibility is essential to its ability to participate effectively in shaping the laws and best practices within our practice areas.

The approximately 10,000 members of the RPPTL Section, as well as the 250 members of the Executive Council, represent a cross section of Florida's legal profession. Large national firms, modest regional firms, and many small and solo practitioners make up the Section and its Executive Council. These attorneys represent thousands of individuals: some members of the Executive Council are employed by or represent banks, trust companies, title companies, condominium associations, developers and others who have specific issues which are considered by the Executive Council.

In June 2013, the then RPPTL Section Chair, William Fletcher Belcher, appointed the Integrity Awareness and Coordination Committee to review how the Section deals with actual and perceived conflict issues ("Committee")¹. The creation of this special committee was partially in response to public criticism which was levied at the Section as a result of the Section's involvement in foreclosure reform legislation. Additionally, contentious debates on several trust related matters evidenced the need for a thoughtful examination of how the Section is dealing with actual and perceived conflicts of interest.

¹ The Committee is composed of Jerry Aron and Sandra Diamond, Co-Chairs; Gwynne Young, Michael Swaine, and Andrew Sasso.

The Chair's charge to the Committee was to "preserve the Section's reputation for integrity by:

- Promoting awareness and understanding of applicable conflict of interest principles and bylaw provisions among components of the Section.
- Coordinating the uniform and consistent application of these principles and provisions within components of the Section; and,
- Other appropriate means."

The task of the Committee includes the consideration of a series of specific questions which posed potential conflict of interest dilemmas or situations which had been encountered or might be encountered within the normal functions of the Section's committees or the deliberation of the RPPTL Executive Council.

II. Review Process

The Committee began its endeavors with a review of Article IX Section 1 of the Section's Bylaws which states:

Section 1. Integrity of Section Proceedings - Disclosure of Conflict and Recusal. A member of the executive council or any section committee shall not participate in a section matter if circumstances exist that may reasonably be expected to cause that participation to undermine confidence in the integrity of the section, executive council, or section committee. Where any fact or circumstance exists that may reasonably bring into question an accusation of bias, prejudice, or conflict of interest on the part of a member while participating in a section matter, it is the duty and responsibility of any member having knowledge of such fact or circumstance to make full disclosure of such fact or circumstance to the executive council or section committee. A bias, prejudice, or conflict of interest may arise from a member's personal interests, employment, or client relationships. When such an issue arises, the chair or other person presiding over the proceeding may request the member to voluntarily refrain from participation and voting with respect to the matter. In addition, recusal may be ordered by 2/3 of the members present of the executive council or section committee. Upon recusal, the member may not vote or otherwise participate in proceedings concerning the matter. If recusal should have occurred but did not, the integrity of section proceedings and the validity of its actions shall not be adversely affected.

We reviewed the conflict of interest and integrity provisions of The Florida Bar Board of Governors, the ABA RPTE Section as well as the conflict of interest policies of several nonprofit organizations for guidance. The Committee also reviewed and discussed several scholarly articles on conflict of interest including a comparative analysis of how different professions address conflicts of interest.

Our discussions and deliberations lead us to general consensus on several issues:

1. The Section should encourage the input of a wide range of views in order to understand the actual and potential consequences of each of its decisions. All members (including stakeholders) should be welcomed at the committee tables and be encouraged to present their views within the debates of the Executive Council.
2. Consultation with other Florida Bar groups as well as representatives from industries and sectors that are impacted by legislation or issues under consideration results in stronger proposals and facilitates consensus among opposing positions.
3. If a member is not exercising independent judgment on an issue they have a duty to disclose the conflict and shall not vote on the issue.
4. The committees of the Section and the Executive Council must be diligent to avoid favoritism and the improper influence of any industries and enterprises.

It should be noted that we have not attempted to define 'conflict of interest' As one author pointed out it is a term of art designated to label a phenomenon lacking a suitable name.² As lawyers, we are familiar with typical client conflicts and are sensitive to our professional rules which give us guidance on how to address those conflicts. But as participants in the RPPTL Executive Council or its committees we have no direct client who with informed consent could waive a conflict. We instead are acting to review, debate, teach and advocate issues in the areas of real property, probate and trusts. The Executive Council has a duty to serve the members of the Section and the general public with fairness and candor, free from improper personal or financial influences. We can only accomplish these goals and maintain our credibility if our processes are transparent and free from the appearance of conflicts of interest.

Inevitably, Section members will have personal interests that could impair or reasonably appear to impair a member's independent and unbiased judgment in the fulfillment of the member's professional duties. And, Section members must strive to insure that their personal interest do not conflict with their duties as Section members. However, the Committee also realizes there are issues of common interest among a substantial segment of the membership of the Section (e.g. attorney's fees) that should not require disclosure or recusal of members of the Section.

Finally, the Committee recognized that to continue to maintain the integrity of the Section the members must be ever vigilant to their professional duties and the purpose, *inter alia*, of the Section "to inculcate in its members the principles of duty and service to the public" and "to serve the public and its members by improving the administration of justice and advancing jurisprudence." Section members should be dissuaded from making comments or taking positions, even in an apparent humorous tone, that appear to advocate a position or result that does not fulfill the purpose of the Section or pass the

² Michael Davis and Josephine Johnson, "Conflict of Interest in Four Professions: A Comparative Analysis": 304, in conflict of interest in medical research, education and practice (National Academies Press, 2009)

“front-page test.”

III. Response to Specific Questions Presented.

Chairman, William Fletcher Belcher, charged the Committee with responding to a series of specific questions which attempted to define the issue of integrity within the Section.

1. Should officers or employees of industry and companies who provide financial sponsorship to the Section and who are active members of The Florida Bar in good standing be given any preference or special consideration in appointment to any position that results in Executive Council membership?

No preference or special consideration should be given to any member of The Florida Bar who is an officer or employee of a company or industry providing financial sponsorship to the Section. However, the Committee does not feel that employment by a private group or industry should in and of itself act to prohibit membership on a committee. The Section should have reasonable balance of all interests on its committees. Some limitations may be appropriate on smaller committees, but generally diversity of views will provide vigorous debate and strengthen committee recommendations.

2. Should industry lobbyists or representatives be permitted to:
 - a. Hold a leadership position on a substantive committee that deals with matters in which their industry has a particular interest?

The Section in recent years has tried to avoid the appointment of lawyers who are also industry lobbyists or representatives as chairs of substantive committees that deal with matters in which their industry has a particular interest. However, the size of the committee, the nature of the committee's task, the specific background and leadership skills of the individual should be considered. These appointments need to balance the scope of the committee's work with potential for conflict or appearance of conflict. Such situations warrant careful monitoring by the Division Director.

- b. Draft legislation (typically as or on a subcommittee) to be advanced by the Section on matters in which their industry has a particular interest. If so, should their industry connection and the industry's interest in the matter be fully disclosed to each component of the Section that takes any action on the legislation?

There is value to the participation of industry lobbyists or representatives in shaping proposed legislation. Their knowledge of the substantive area and ability to act as a liaison with their

particular industry can be a significant contribution to the process. However, the industry's connection and interest in the matter should be fully disclosed at each step of the process.

- c. Participate in debate in committee and Executive Council meetings on matters in which their industry has a particular interest without making full disclosure of their employment or industry relationship and in the industry's interest in the matter. Although many persons attending those meetings are aware of those matters, some are not.

Members of the Section who are industry lobbyists or representatives should be encouraged to participate in debate at all levels of Section activity. The industry connection and/or interest must be disclosed unless apparent in the judgment of the committee chair or other presiding officer. The manner of that disclosure should be appropriate for the discussion.

- d. Vote on matters in which their industry has a particular interest? If so, should their industry connection and the industry's interest in the matter be fully disclosed?

When participating in any Section activity or debate in which a member of the council has a particular interest or a potential conflict of interest, whether that particular interest or potential conflict comes as a result of their connection to a specific industry group or from the representation of a specific client, the effected Executive Council member should appropriately disclose that interest. The member must voluntarily refrain from voting on any matter in which a direct conflict of interest may prevent them from exercising independent judgment.

- 3. Should officers or employees of industry companies be permitted to:

- a. Hold a leadership position on a substantive committee that deals with matters in which their industry has a particular interest?

The Section should use reasonable means to avoid the appearance of bias or conflict of interest. Thus, as a general rule, officers and employees of industry companies should not hold leadership positions on a committee that deals with the matter in which their industry has a particular interest. However, the size of the committee, the nature of the committee's task, the specific background and leadership skills of the individual should be considered. These appointments need to balance the scope of the committee's work and potential for conflict or appearance of conflict. Such situations warrant careful monitoring by the Division Directors.

- b. Draft legislation (typically as or on a subcommittee) to be advanced by the Section on matters in which their industry has a particular interest. If so, should their industry connection and the industry's interest in the matter be fully disclosed to each component of the Section that takes any action on the legislation?

The participation of officers or employees of industries can facilitate the drafting of legislation by increasing the awareness of the committee in regard to the practical impact of the proposed legislation and by providing substantive expertise to the process. However, the committee members need to ensure that their connection is disclosed to the committee at all steps of the process.

- c. Participating in debate or discussion in Section meetings on matters in which their industry has a particular interest without making full disclosure of their industry employment relationship and the industry's interest in the matter?

Members of the Section who are officers or employees of industries or companies should be encouraged to participate in the debate at all levels of Section activity. The industry connection and/or interest should be disclosed. The manner of that disclosure should be appropriate for the discussion.

- d. Vote on matters in which their industry has a particular interest? If so, should their industry employment relationship and the industry's interest in the matter be fully disclosed?

When participating in any Section activity or debate in which a member of the council has a particular interest or a potential conflict of interest, whether that particular interest or potential conflict comes as a result of their connection to a specific industry group or whether that conflict results from the representation of a specific client, the affected Executive Council member must appropriately disclose that interest. The member should voluntarily refrain from voting on any matter in which a direct conflict of interest may prevent them from exercising independent judgment.

4. When full disclosure of a matter is required by a member, does the fact that the member believes that other members participating in the matter are already aware of the matter that is required to be disclosed excuse the member from making disclosure?

The manner and the frequency of the disclosure will of necessity be driven by the context of the discussion and may vary depending on the size of the committee or whether the discussion is taking place on the floor of the Executive Council. In a very small committee, it may be unnecessary for an

individual to disclose their relationship or employment more than one time and have that information noted in the committee minutes. However, in a larger committee it may be necessary for the individual to disclose their relationship at the beginning of each committee meeting or the first time that individual rises to address the committee. Our council and committee structure has shown substantial growth. There are many new members on our committees. The affiliation of industry representatives and employers changes with frequency. Even if we have known a specific committee member or Executive Council member for many years the other members of the committee may be unaware or simply have forgotten the speaker's relationship or connection to a specific industry. There are also instances in which an individual member of a committee or the Executive Council is representing a specific client who would be impacted by a pending proposal. Council members have historically disclosed those individual representations in a general sense without violating client confidentiality and should continue to do so.

5. When full disclosure of a matter is required, should the disclosure always be reflected in the minutes of the meeting?

The integrity of the Section requires open discussion and transparency. The best practice would be for any disclosures or potential conflicts of interest to be noted in the minutes of the meeting. The minutes should note any individuals who recuse themselves from participation in a discussion or a vote on specific matter.

IV. Conclusions and Procedural Recommendation to Facilitate RPPTL Integrity Awareness.

All members of the RPPTL Executive Council and the Section need to be committed to promoting the integrity of the Section and to avoid bias, prejudice and conflicts of interest which may arise from a member's personal interest, employment or client relationships. The strength of the Section lies in the diversity of its members, their expertise and their points of view. Some of our members represent specific clients or groups of clients that will be affected by Section positions. Other members may be employed by or affiliated with industries or institutions impacted by our actions. As the Executive Council grows and as committee participation expands, we cannot assume that professional relationships, much less individual client relationships will be apparent or known. Thus we offer the following suggestions:

- Encouragement by each committee chair and Division Director that those rising to address an issue during debate shall state any employed relationship which might be perceived to be a conflict of interest or to otherwise make a declaration of client relationship which would have the appearance of impacting the speaker's position.
- Prior to each committee or Executive Council vote, the chair or the

presiding officer shall first ask for abstentions which shall be noted in the minutes.

- The committee chair or other presiding officer may request a member to voluntarily refrain from voting with respect to a specific matter.
- In addition, recusal may be ordered by 2/3 of the members present and voting.
- The RPPTL Bylaws should be modified to ensure that an abstention or failure to cast a vote shall not skew the totals necessary for approval of any matter. The Committee has proposed changes to the RPPTL Bylaws, which are attached.

BYLAWS

[View Section Bylaws PDF](#)

BYLAWS OF THE REAL PROPERTY, PROBATE AND TRUST LAW SECTION

Article I

NAME AND PURPOSES

Section 1. Name. The name of this organization is "The Real Property, Probate and Trust Law Section of The Florida Bar" ("section").

Section 2. Purposes. The purposes of the section are:

- (a) To provide an organization within The Florida Bar open to persons having an interest in real property (including construction), probate, trust, or related fields of law, that furthers the knowledge and practices of members in those areas;
- (b) To inculcate in its members the principles of duty and service to the public; and
- (c) To serve the public and its members by improving the administration of justice and advancing jurisprudence in the fields of real property (including construction), probate, trust, and related fields of law, through all appropriate means, including the development and implementation of legislative, administrative, and judicial positions; continuing legal education programs; standards for ethical and competent practice by lawyers; and professional relationships between real property (including construction), probate, and trust lawyers, and other lawyer and nonlawyer groups.

Article II

SECTION MEMBERSHIP

Section 1. Membership Types. The membership of the section shall be the active members ("active section member"), affiliate members ("affiliate section member"), and honorary members ("honorary section member") hereafter described:

(a) *Active Section Member.* Any member of The Florida Bar in good standing may become an active section member by applying for such membership and paying the section's annual dues. Any person who is an active section member who ceases to be a member of The Florida Bar in good standing also ceases to be a member of the section. Reinstatement as a member of The Florida Bar in good standing shall automatically reinstate the person as an active section member, provided that the member is current in the payment of section dues.

(b) *Affiliate Section Member.* The Executive Council of the section ("executive council") may, in its discretion (after review and approval of the applicant's qualifications for membership), enroll as an affiliate section member, any person who has shown the dual capacity of interest in and contribution to the section's activities and who is either a law student enrolled in an accredited Florida law school, a graduate of any law school, or a legal assistant, as defined below. Affiliate section members shall pay the annual dues prescribed by the executive council and shall have all the privileges of active section members, except that they may not vote or hold any office or position in the section. The number of affiliate section members shall not exceed 1/3 of the number of active section members.

For purposes of this Article, a legal assistant is a person who assists a member of The Florida Bar in the delivery of legal services in the area of real property (including construction), probate, trust, or related fields of law, and who has satisfied the following minimum requirements:

1. Successful completion of the certified legal assistant (CLA) examination of the National Association of Legal Assistants, Inc.;
2. Graduation from an ABA-approved program of study for legal assistants or graduation from any accredited law school;
3. Graduation from a course of study for legal assistants which is institutionally accredited, but not ABA-approved, and which requires not less than the equivalent of 60 semester hours of classroom study;
4. Graduation from a course of study for legal assistants, other than those set forth in 2 and 3, above, plus not less than 6 months of in-house training as a legal assistant;
5. A bachelor degree in any field, plus not less than 1 year of in-house training as a legal assistant; or
6. Five years of in-house training as a legal assistant.

(c) *Honorary Section Member.* Any person whom the executive council shall find to have made outstanding contributions in the fields of real property (including construction), probate, trust, or related fields of law, may be made an honorary section member by the executive council. An honorary section member shall have no vote at section meetings, shall not be entitled to hold any office or position in the section, and shall not be required to pay dues.

Section 2. Membership Year. The membership year of the section runs concurrently with the membership year of The Florida Bar.

Section 3. Dues. The executive council shall establish the amount of annual section dues for each type of section membership, subject to approval by the Board of Governors of The Florida Bar ("board of governors"). Annual section dues shall be payable in advance of each year of section membership. There will be no proration of annual section dues.

(a) The Florida Bar shall bill active members of the section for annual section dues simultaneously with billing for regular membership dues of The Florida Bar. Members of The Florida Bar who become active section members shall not be required to pay annual section dues for the first fiscal year following their admission to The Florida Bar.

(b) Annual section dues for affiliate members of the section shall initially accompany applications for affiliate section membership and shall thereafter be paid by the date that membership dues for The Florida Bar become due.

(c) Any member of the section whose annual section dues are not paid by the date Florida Bar membership dues become delinquent ceases to be a member of the section.

Section 4. Membership Standards. All members of the section shall be required to observe the standards of professionalism and ethical conduct expected of members of The Florida Bar, and legal assistants who are affiliate section members shall also be required to observe and adhere to the Code of Ethics and Professional Responsibility established by the National Association of Legal Assistants, Inc. The executive council, by 2/3 vote of the members present and voting at a meeting, may terminate section membership for misconduct involving moral turpitude or the failure to observe the standards of conduct established by these bylaws. Any proposed termination of section membership by the executive council shall be an agenda

item at an in-state meeting, and the affected member shall be given reasonable notice of the basis for the proposed termination and an opportunity to be heard at that meeting.

Article III

ORGANIZATION

The section is divided into 2 divisions, "the real property law division" and "the probate and trust law division". The section and its real property law division shall be served by committees and section liaisons that operate under the supervision of the real property law division director. The section and its probate and trust law division shall be served by committees and section liaisons that operate under the supervision of the probate and trust law division director. The section shall also be served by general standing committees and section liaisons that operate under the supervision of the chair-elect.

Article IV

OFFICERS, ELECTED POSITIONS, AND EXECUTIVE COMMITTEE

Section 1. Officers. The officers of the section are the section chair, the chair-elect, the secretary, the treasurer, the real property law division director, the probate and trust law division director, the immediate past section chair, and the at-large members director ("section officers"). The section officers, the representatives for out-of-state members of the section, and the at-large- members, shall be selected in the manner set forth in this Article IV.

Section 2. Qualifications. No person may serve as a section officer or in a position as representative for out-of-state members or at-large-members unless they are an active section member, and the loss of that status shall cause the office or position to be vacant. If status as an active section member ceases because of a loss of status as a member of The Florida Bar in good standing that is solely attributable to a delinquency in:

- (i) the payment of membership fees or dues; or
 - (ii) completing continuing legal education requirements,
- reinstatement as a member of The Florida Bar in good standing and as an active section member shall automatically reinstate the member to the vacant office or position if it has not been filled.

Section 3. Executive Committee. The section officers, together with the chairs of the section CLE seminar coordination committee and legislation committee, shall serve as the executive committee of the section ("executive committee"), which shall be the planning agency for the executive council. The executive committee shall also have the full power and authority to exercise the function of the executive council when and to the extent authorized by the executive council with respect to a specific matter, and on any other matter which the executive committee reasonably determines requires action between meetings of the executive council. All action taken by the executive committee on behalf of the executive council shall be reported to the executive council at its next meeting. The executive committee shall not take any action that conflicts with the policies and expressed wishes of the executive council. The executive committee shall also:

- (i) make recommendations for consideration by the chair-elect in appointing chairs and vice chairs of section committees and section liaisons;
- (ii) make recommendations for consideration by the section's long-range planning committee ("long-range planning committee") in submitting nominees for at-large- members; and (iii) perform such other duties as may be directed by the executive council or prescribed in these bylaws.

Section 4. Nominating Procedure.

(a) The long-range planning committee, which shall consist of all past section chairs who are members of the executive council and be chaired by the chair-elect, shall submit nominees to the section for election to the offices of chair-elect, secretary, real property law division director, probate and trust law division director, treasurer, at-large-members director, and the positions of representatives for out-of-state members and at-large members. If the office of chair-elect becomes vacant during the year, the nominations submitted by the long-range planning committee for the following year shall include a nominee for the office of section chair. The long-range planning committee shall notify the members of the section of the names of the nominees no later than 60 days prior to the section's annual meeting ("election meeting"). In submitting nominations for at-large-members, the long-range planning committee shall consider recommendations from the at-large-members director and the executive committee.

(b) No nominations for any elected office or position other than those made by the long-range planning committee will be permitted, except that nominations may be made by a written nominating petition signed by 25 or more active section members and submitted to the section chair not less than 30 days prior to the election meeting. If more than one person is nominated for any elected office or position, the section chair, assisted by such special committees as the section chair may appoint, will announce the procedures to be followed for that election.

(c) Each nominee will be permitted to prepare a statement of no more than 500 words, containing such information about the nominee as the nominee may choose, to be reproduced and distributed by the section to its members, either as an article in the section's publication, Action Line, or separately. Any such statement shall also be distributed at the election meeting.

Section 5. Election and Term of Offices and Positions.

(a) The section officers, the representatives for out-of-state members, and the at-large-members, shall be elected by majority vote of the active section members in physical attendance and voting at the election meeting, which shall be held prior to July 1 of each year. Voting by proxy shall not be permitted. At the election meeting the section chair, chair-elect, and secretary shall determine the number of active section members in physical attendance and entitled to vote voting; and voting will be by written, secret ballot prepared in advance. If no nominee receives a majority vote for an office or position, additional balloting will take place between the 2 nominees receiving the greatest number of votes until the required majority is obtained. Results of the election will be immediately announced by the section chair.

(b) The nominees so elected shall serve for a period of 1 year, beginning on July 1. The chair-elect shall automatically become section chair upon expiration of the term as chair-elect or upon the death, resignation, or removal of the section chair.

Section 6. Duties of Officers.

(a) *Section Chair.* The section chair shall be the chief executive officer and principal representative of the section, and shall preside at all meetings of the section, the executive council, and the executive committee. The section chair shall also be responsible for reports to The Florida Bar or the board of governors and for performing such other duties as may be prescribed in these bylaws or which customarily pertain to the office of section chair. The section chair is an ex-officio member of all section committees.

(b) *Chair-elect.* The chair-elect shall be responsible for: (i) the general standing committees and any projects assigned to them, including the preparation and submission of any required reports; (ii)

such duties as the section chair, the executive council, or the executive committee may designate; and (iii) performing such other duties as may be prescribed in these bylaws or customarily pertain to the office of chair-elect. In addition, in the case of the temporary disability or absence of the section chair, the chair-elect shall serve as acting section chair, but only for the duration of the section chair's disability or absence. Any issue concerning the disability or absence of the section chair shall be determined by the executive committee, subject to review by the executive council.

(c) *Secretary*. The secretary shall make and record: (i) minutes of meetings of the executive council (including record of attendance); (ii) significant actions taken by the executive committee, including all actions which exercise any function of the executive council; and (iii) the election results at the election meeting, and shall file all of those records with the permanent records of the section at The Florida Bar headquarters in Tallahassee. The secretary shall also report and keep a record of all policies adopted by the section as a separate record.

(d) *Division Directors*. The real property law division director and the probate and trust law division director shall be responsible for the section committees within their respective divisions, and for the projects assigned to them, including the preparation and submission of reports of such section committees as may be required.

(e) *Treasurer*. The treasurer and the appropriate staff of The Florida Bar shall make certain that the financial affairs of the section are administered in a manner authorized by the section's budget and in accordance with the standing policies of the board of governors. The treasurer shall monitor and review for correctness all accounts, reports and other documents pertaining to section funds, revenues and expenditures that are furnished by the staff of The Florida Bar. No reimbursement may be made to any member of the section without approval of the treasurer, and any reimbursement to the treasurer must be approved by the section chair or chair-elect. The treasurer shall: (i) work with the chair-elect to prepare and submit a projected budget to the executive council; (ii) report from time to time on the section's present and projected financial condition, advising the executive committee and the executive council as to the financial impact of any proposed action that might have a significant impact on the financial condition of the section; and (iii) prepare such other recommendations and special reports of financial affairs of the section as may be requested by the section chair.

(f) *At-Large-Members Director*. The at-large-members director shall:

- (i) in consultation with the executive committee, define any responsibilities of the at-large-members;
- (ii) be responsible to the section for the at-large-members;
- (iii) evaluate the performance of the at-large-members on an annual basis; and
- (iv) provide recommendations for consideration by the long-range planning committee in submitting nominees for at-large-members.

(g) *Immediate Past Section Chair*. The immediate past section chair shall provide counsel, guidance and advice to the executive committee.

Section 7. Vacancies.

(a) If the office of section chair becomes vacant, the chair-elect shall immediately assume the office of section chair, and shall serve as section chair for the remainder of the unexpired term, as well as for the following term for which the chair-elect was elected to serve as section chair.

(b) If the office of chair-elect becomes vacant, the section chair shall assume the duties of the office of chair-elect for the remainder of the unexpired term. In that event, at the next election meeting, a section chair shall be nominated and elected in the manner provided in these bylaws.

(c) If the offices of section chair and chair-elect both become vacant, the long-range planning committee shall convene an emergency meeting and select a qualified person to serve as section chair for the remainder of the unexpired term. In that event, the person selected as section chair shall also assume the duties of the office of chair-elect for the remainder of the unexpired term and, at the next election meeting, a section chair shall be nominated and elected in the manner provided in these bylaws.

(d) If any office other than section chair or chair-elect becomes vacant within 6 weeks of the next scheduled in-state meeting of the executive council, the vacancy shall be filled for the remainder of the unexpired term by the executive council at that meeting. If no in-state meeting is scheduled within 6 weeks following the creation of such a vacancy, it shall be filled for the remainder of the unexpired term by the executive committee.

(e) Vacancies in the positions of representative for out-of-state members and at-large- members shall be filled by the section chair.

Article V EXECUTIVE COUNCIL

Section 1. Power and Duties. The executive council is the governing body of the section and shall have the power and duty to fully administer these bylaws, including the power to exercise all authority expressed or implied in these bylaws and to employ necessary personnel on behalf of the section.

Section 2. Membership. The executive council shall consist of the section chair, the chair-elect, the real property law division director, the probate and trust law division director, the treasurer, the secretary, the at-large-members director, the chairs and vice chairs of section committees, the section liaisons, the member of the board of governors appointed as its liaison representative to the section, the at-large-members, the past section chairs, and the representatives for out-of-state members of the section.

Section 3. At-Large-Members and Regional Representation. The existence of the at-large-members category is intended to help the section achieve the goal of maintaining active, productive members on the executive council, while preserving regional representation. To be considered for such a position, a prospective at-large-member must demonstrate the willingness and ability, through previous committee leadership or otherwise, to assist the section with its needs. To the extent that the section officers, chairs and vice chairs of section committees, section liaisons, and representatives for out-of-state members of the section serving on the executive council do not include geographical representation from each judicial circuit and outside of Florida, the at-large-members should include such representation when reasonably practicable.

Section 4. Attendance. Regular attendance by executive council members at executive council meetings is requisite to the proper performance of their duties and responsibilities. Accordingly, if any past section chair is absent from 10 consecutive in-state executive council meetings, or if any other member of the executive council is absent from 3 consecutive in-state executive council meetings in any membership year, such member shall be deemed to have resigned from the executive council, and any section office or position held by that person shall be deemed vacant. In

such event, the resigned member shall not be eligible for election to or membership on the executive council for the next succeeding membership year unless: (i) the executive committee, upon a showing of good cause for the absences, waives the attendance requirement for the membership year involved; and (ii) the waiver is announced at a formal meeting of the executive council and duly recorded in the minutes of the meeting. Any vacancy created by the absence of a member as herein provided shall be filled as provided in these bylaws.

Article VI

SECTION COMMITTEES AND LIAISONS

Section 1. Committees. The section chair shall have the authority to establish and dissolve such committees and liaison positions as the section chair deems necessary or advisable, except that the section chair may not dissolve the section legislation committee or the CLE seminar coordination committee. The section chair shall promptly report such changes to the executive council, and they shall be effective until and unless disapproved by the executive council.

Section 2. Section Committee Chairs and Liaisons. Prior to July 1 of each year, after considering the recommendations of the executive committee, the chair-elect shall make the following appointments for the coming year: (i) chairs of the section's real property law division committees, and such vice chairs of those committees as the chair-elect deems necessary; (ii) chairs of the section's probate and trust law division committees, and such vice chairs of those committees as the chair-elect deems necessary; (iii) chairs of the section's general standing committees, and such vice chairs of those committees and as the chair-elect deems necessary; and, (iv) section liaisons to other sections and groups. The section chair shall have the power to remove chairs and vice chairs of section committees and section liaisons if the section chair believes that it is in the best interest of the section to do so, and to fill vacancies in those positions (including vacancies resulting from the section chair's creation of new section committees or liaison positions).

Section 3. Committee Members. The chair of each section committee may appoint and remove members to and from that committee, except that a committee chair may not remove a vice chair of the committee.

Section 4. Section Membership Requirement. No person may serve as a member of any section committee unless they are a member of the section. No person may serve as a: (i) chair, vice chair, or voting member of any section committee; or (ii) section liaison, unless they are an active section member, and the loss of that status shall cause the position to be vacant. If status as an active section member ceases because of a loss of status as a member of The Florida Bar in good standing that is solely attributable to a delinquency in: (i) the payment of membership fees or dues; or (ii) completing continuing legal education requirements, reinstatement as a member of The Florida Bar in good standing and as an active section member shall automatically reinstate the member to the vacant position if it has not been filled.

Section 5. Committee Reports. The chair of each section committee shall submit a written annual report of the committee's activities during the year to the executive committee by the date requested by the section chair. All recommendations contained in such reports are confidential and shall not be disclosed outside the executive committee without approval of the section chair.

Article VII MEETINGS

Section 1. Annual/Election Meeting of the Section. The section chair shall designate the annual meeting of the section each year, which shall be the election meeting and be held prior to July 1. The

executive council may call special meetings of the section provided at least 30 days notice thereof shall be given. The active section members in physical attendance at any meeting of the section shall constitute a quorum for the transaction of business and a majority vote of those in physical attendance **and voting** will be binding. Voting by proxy shall not be permitted.

Section 2. Executive Council Meetings. There shall be no fewer than 3 in-state meetings of the executive council each year. The executive council may act or transact business herein authorized, without meeting, by written or electronic approval of the majority of its members. The section chair may call meetings of the executive council by giving no less than 15 days notice to its members. Those present at a meeting of the executive council duly called will constitute a quorum and a majority vote of those present **and voting** will be binding, unless a greater majority is required by these bylaws for a particular matter. Voting by proxy shall not be permitted.

Section 3. Executive Committee Meetings. The executive committee shall meet as directed by the section chair, and shall hold an organizational meeting prior to each membership year at a time, date, and place selected by the section chair. The section chair shall fix the date and location of each meeting and shall give written, electronic, or oral notice of such date and location to each executive committee member at least 7 days prior to the meeting. A majority of the executive committee may exercise its powers unless a greater majority is required by these bylaws for a particular matter, and it is not necessary that a formal meeting be held for action, action by mail, e-mail, or telephone being sufficient. Voting by proxy shall not be permitted.

Section 4. Conduct of Meetings. The current edition of Robert's Rules of Order shall govern the conduct of all meetings of the section and its subdivisions, except that provisions contained in these bylaws shall prevail over any conflicting provision in those Rules. The section chair may appoint a parliamentarian to advise and assist the section chair or any other person presiding over a meeting of the section or any of its subdivisions in connection with any procedural issues that may arise. Non-members of the executive council may address the executive council with the permission of the section chair or upon 2/3 vote of the members of the executive council present **and voting** (without debate).

Article VIII

LEGISLATIVE, ADMINISTRATIVE, AND JUDICIAL POSITIONS

Section 1. Authority. The section may be involved in legislative, administrative, and judicial (including amicus curiae and court rule) activities that are within the purview of the section. Activities are within the purview of the section if they are significant to the judiciary, the administration of justice, the fundamental legal rights of the public, or the interests of the section, provided they are consistent with the purposes of the section and the policies promulgated by the board of governors, including the requirements that:

- (a) the issue involved is within the substantive areas of real property (including construction), probate, trust, or related fields of law;
- (b) the issue is beyond the scope of permissible legislative activity of The Florida Bar, or is within the permissible scope of legislative activity of The Florida Bar, but the proposed section position is not inconsistent with an official position of The Florida Bar on that issue; and
- (c) the issue is not one that carries the potential of deep philosophical or emotional division among a substantial segment of the membership of The Florida Bar.

Section 2. Section Positions. A "section position" is a legislative, administrative, or judicial (including amicus curiae and court rule) position that complies with Section 1 of this Article and has been adopted by the section in accordance with this Article. A section position, which may be expressed as a concept, may either support or oppose a matter. Any advocacy by the section shall be based upon a section position and comply with the requirements of this Article.

Section 3. Legislation Committee. The section legislation committee shall consist of a chair, a vice chair for real property, a vice chair for probate and trust, the section chair, the chair-elect, the director of the real property law division, the director of the probate and trust law division, and such other members of the executive council as are appointed by the chair of the section legislation committee with the approval of the section chair. The section legislation committee shall coordinate the legislative activities of the section and act as a liaison between: (i) the executive council (or its executive committee); and (ii) the section lobbyist and legislative and administrative bodies.

Section 4. Procedures for Adopting and Reporting Section Positions.

(a) A proposed section position shall be an agenda item and supporting documentation shall be distributed to the executive council at least one week prior to the executive council meeting unless those requirements are waived by 2/3 of the members of the executive council present at that meeting.

(b) A section position may be proposed by a section committee.

(c) To adopt a section position, the executive council must, by a 2/3 vote of the members present **and voting**: (i) find that the proposal is within the purview of the section, as defined in Section 1 of this Article; and (ii) approve the proposal. Voting by proxy shall not be permitted. Whenever, because of time constraints, the executive council cannot meet to adopt a section position prior to the time when legislative, administrative, or judicial action is required, the executive committee may, by a 2/3 vote of its members **present and voting**, adopt a section position. Any section position adopted by the executive committee must be reported to the executive council at its next meeting.

(d) Written notice of the adoption of a section position shall be promptly given to The Florida Bar, and it shall be circulated for comment to all divisions, sections, and committees of The Florida Bar that are believed to be interested in the matter.

(e) A section position may not be advanced unless it has been submitted to, and not disapproved by, the board of governors. A section position shall remain in force for the current biennial legislative session unless rescinded by the board of governors.

(f) In even-numbered years, the section legislation committee shall recommend those section positions to be renewed at the executive council meeting held in conjunction with the election meeting of the section.

(g) The section shall not participate as an amicus curiae without the consent of the board of governors.

(h) Section positions shall be clearly identified as positions of the section, and not those of The Florida Bar.

Section 5. Expenses Incurred in Advancing Section Positions. If the section lobbyist or section chair requests the appearance of a section member to advance a section position, the member's reasonable expenses shall be paid by the section in accordance with its budgetary policies.

Section 6. Section Lobbyist. Subject to the approval of the board of governors, the section may retain a lobbyist to assist the section in its legislative activities or matters.

Article IX MISCELLANEOUS

Section 1. Integrity of Section Proceedings - Disclosure of Conflict and Recusal. A member of the executive council or any section committee shall not participate in a section matter if circumstances exist that may reasonably be expected to cause that participation to undermine confidence in the integrity of the section, executive council, or section committee. Where any fact or circumstance exists that may reasonably bring into question an accusation of bias, prejudice, or conflict of interest on the part of a member while participating in a section matter, it is the duty and responsibility of any member having knowledge of such fact or circumstance to make full disclosure of such fact or circumstance to the executive council or section committee. A bias, prejudice, or conflict of interest may arise from a member's personal interests, employment, or client relationships. When such an issue arises, the chair or other person presiding over the proceeding may request the member to voluntarily refrain from participation and voting with respect to the matter. In addition, recusal may be ordered by 2/3 of the members present and voting of the executive council or section committee. Upon recusal, the member may not vote or otherwise participate in proceedings concerning the matter. If recusal should have occurred but did not, the integrity of section proceedings and the validity of its actions shall not be adversely affected.

Section 2. Action of The Florida Bar. No action of the section shall be represented or construed as the action of The Florida Bar until it has been approved by The Florida Bar.

Section 3. Compensation and Expenses. No salary or other compensation may be paid to any member of the section for performance of services to the section, but members of the section may be reimbursed for such reasonable and necessary telephone expenses, reproduction expenses and other similar out-of-pocket expenses that such member incurs in the performance of services for the section.

Section 4. Policies of the Section. Policies adopted by the executive council, including section policies, shall be maintained in a separate journal at The Florida Bar Headquarters in Tallahassee, Florida together with the other official records of the section.

Section 5. Amendments. These bylaws may be amended only with the consent of the board of governors upon recommendation made by the executive council.

Section 6. Notice. Any requirement in these bylaws that notice (whether written or otherwise), information, or materials be furnished may be satisfied by: (i) any method of delivery specified in the requirement; (ii) transmitting the notice, information or materials by e-mail to any e-mail address provided by the recipient to The Florida Bar; or (iii) posting the notice, information, or materials to the section's website and notifying the member of the posting by e-mail to any e-mail address provided by the recipient to The Florida Bar.

Section 7. Effective Date. These bylaws shall be effective as of July 1, 2010, or upon their adoption by the executive council, or upon their approval by the board of governors, whichever occurs later. Upon the effective date of these bylaws and for the remainder of the term for which they were elected, each existing circuit representative shall automatically become an at-large-member, and the existing circuit representatives director shall automatically become the at-large-members director.

NOTE: These bylaws were approved by the Board of Governors on May 27, 2011, and by the Executive Council on May 28, 2011.

IN THE SUPREME COURT OF FLORIDA

CASE NO: SC13-2536
DCA Case No.: 4D12-2094

CAROL ANN JONES,
petitioner,

v.

EDWARD I. GOLDEN,
respondent.

ON DISCRETIONARY REVIEW FROM THE
DISTRICT COURT OF APPEAL OF FLORIDA, FOURTH DISTRICT

AMICUS CURIAE BRIEF
OF
THE REAL PROPERTY, PROBATE & TRUST LAW SECTION
OF THE FLORIDA BAR

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IDENTITY AND INTEREST

The Real Property Probate & Trust Law Section of The Florida Bar (“Section”) is a group of Florida lawyers who practice in the areas of real estate, trust and estate law. The Section is dedicated to serving all Florida lawyers and the public in these fields of practice. We produce educational materials and seminars, assist the public *pro bono*, draft legislation, draft rules of procedure, and occasionally serve as a friend of the court to assist on issues related to our fields of practice.¹ Our Section has over 10,000 members.

Pursuant to Section bylaws, the Executive Council of the Section voted unanimously to appear in this case if permitted by the Court. The Florida Bar approved the Section’s involvement in this case.²

¹ For example, see *North Carillon, LLC, v. CRC 603, LLC*, 135 So. 3d 274 (Fla. 2014); *Aldrich v. Basile*, 136 So. 3d 530 (Fla. 2014); *Chames v. DeMayo*, 972 So. 2d 850, 854-55 (Fla. 2007); *McKean v. Warburton*, 919 So. 2d 341 (Fla. 2005); *May v. Illinois Nat. Ins. Co.*, 771 So. 2d 1143 (Fla. 2000); *Friedberg v. SunBank/Miami*, 648 So. 2d 204 (Fla. 3d DCA 1994).

² The Executive committee of the Section approved the filing of this brief, which was subsequently approved by the Section’s Executive Council. Pursuant to Standing Board Policy 8.10, the Board of Governors of The Florida Bar (typically through its Executive Committee) must review a Section’s amicus brief and grant approval before the brief can be filed with the Court. Although reviewed by the Board of Governors, the amicus brief will be submitted solely by the Section and supported by the separate resources of this voluntary organization---not in the name of The Florida Bar, and without implicating the mandatory membership dues paid by Florida Bar licensees. The Florida Bar approved our filing of this brief.

Kenneth B. Bell, Gerald B. Cope, Jr., Robert W. Goldman, and John W. Little III, are the four co-chairs of the amicus committee of the Section, which is charged with preparing amicus briefs for the Section.

The Section's interest in this case stems from the Section's expertise and experience with the Florida Probate Code and creditor claims in probate proceedings and the impact this case will have on creditor rights in probate proceedings.

SUMMARY OF ARGUMENT

Underlying the creditor claim laws in probate is the Legislature's effort to strike a balance between the fundamental policies of promptly closing estates and the due process rights of creditors of an estate.

Not all creditors are due the same amount of process. Indeed, there are two types of creditors of an estate: those who are reasonably ascertainable and those who are not. A reasonably ascertainable creditor is entitled to a notice to creditors, the service of which begins the running of a statute of limitation (ending on the later of 30 days from service of the notice to creditors or 3 months from first publication of notice to creditors). The statute of limitation for creditors who are not reasonably ascertainable begins to run upon first publication of the notice to

creditors (ending 3 months from first publication). The claims of all creditors of an estate are barred if not filed within two years from the death of the decedent.

Therefore, assuming there is a reasonably ascertainable creditor of a decedent's estate and assuming the personal representative of that decedent's estate never served that reasonably ascertainable creditor with a notice to creditors, the limitation period for that creditor to file a claim against the estate is governed by the two-year statute of repose, not the 3-month limitations period for claims filed after publication of the notice to creditors. §§733.702, 733.710 Fla. Stat. (2006).

ARGUMENT

Florida, like most states, has a strong and unwavering public policy in favor of settling and closing estates in a speedy manner. *In re Jeffries' Estate*, 136 Fla. 410, 181 So. 833 (Fla. 1938); *Estate of Brown*, 117 So. 2d 478 (Fla. 1960); *Barnett Bank v. Estate of Read*, 493 So. 2d 447 (Fla. 1986); *May v. Illinois Nat'l Ins.*, 771 So. 2d 1143 (Fla. 2000).

While mindful of the rights of creditors, the Legislature's enthusiastic embrace of this policy originally caused it to develop a "one size fits all" approach to processing creditor claims in probate. See §733.702, Fla. Stat. (Supp. 1988), and pre-1988 versions of the statute.

But, what this claim process offered in simplicity and speed, it lacked in due process for those creditors reasonably ascertainable to the personal representative. *See Tulsa Professional Collection Services v. Pope*, 485 U.S. 478 (1988). In *Pope*, the Supreme Court of the United States considered a probate claims process substantially identical to our own as of that time. As in Florida, the Oklahoma statute involving probate claims was *not* self-executing. It required the opening of a probate proceeding by a court and the appointment of a personal representative by the court before any notice was required and before a limitation period could commence. The law also required that notice of publication of the notice to creditors, and an affidavit indicating publication had occurred, be filed with the clerk of court. 485 U.S. at 487. A very similar process was followed in Florida (§§733.202, 733.2121; Fla. P. R. 5.200, 5.235, 5.241) and, like Florida, the entire probate process in Oklahoma was supervised by the probate court. The Supreme Court held:

This involvement is so pervasive and substantial that it must be considered state action subject to the restrictions of the Fourteenth Amendment.

Id. Self-executing claim statutes, on the other hand, that simply ran from date of death until a date certain, did not involve state action and were not restricted by the Fourteenth Amendment. 485 U.S. at 485-86.

The Supreme Court in *Pope* grappled with the obvious limitations on a creditor getting the needed information through a publication of notice in a newspaper and a state's "legitimate interest in the expeditious resolution of probate proceedings. Death transforms the decedent's legal relationships and a State could reasonably conclude that swift settlement of estates is so important that it calls for very short time deadlines for filing claims." 485 U.S. at 489. The Supreme Court made clear that actual notice to "reasonably ascertainable creditors" was required in order to satisfy due process. 485 U.S. at 490. Further, as the Supreme Court had already held in *Mennonite Board of Missions v. Adams*, 462 U.S. 791, 798, n.4 (1983), impractical and extended searches by the estate's representative were not required. 485 U.S. at 491. The Supreme Court also held that actual notice by U.S. mail was sufficient to satisfy due process for "reasonably ascertainable creditors." 485 U.S. at 490. The Supreme Court concluded:

On balance then, a requirement of actual notice to known or reasonably ascertainable creditors is not so cumbersome as to unduly hinder the dispatch with which probate proceedings are conducted.

Id. Actual notice was not required for creditors "with mere 'conjectural' claims."

Id., citing to and quoting, *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 317 (1950).

In response to *Pope*, and with some assistance from the Section, the Legislature amended the Florida Probate Code to address the due process issue.³ These amendments were adopted over the ensuing few years culminating in statutes we believe are germane to this Court's resolution of this appeal: sections 733.2121, 733.702 and 733.710, Florida Statutes (2006).⁴

In pertinent part, section 733.2121 provides:

(1) Unless creditors' claims are otherwise barred by s. 733.710, the personal representative shall promptly publish a notice to creditors. The notice shall contain the name of the decedent, the file number of the estate, the designation and address of the court in which the proceedings are pending, the name and address of the personal representative, the name and address of the personal representative's attorney, and the date of first publication. The notice shall state that

³ This Court also reacted promptly to *Pope* and issued rules, which were subsequently codified in Florida Statutes as well. *The Florida Bar. In re Rules of Probate and Guardianship Procedure*, 537 So. 2d 500 (Fla. 1988). One of these rules, 5.495, was repealed by this Court after statutory amendments made it unnecessary. *In re Amendments to the Florida Probate Rules*, 584 So. 2d 964 (Fla. 1991). Rule 5.240 was amended and a new rule 5.241 was adopted in 2002 in order to separate the notice to creditors from a notice of administration in a manner consistent with the Legislature's adoption of section 733.2121, Florida Statutes in 2001. *Amendments to the Florida Probate Rules*, 824 So. 2d 849 (Fla. 2002). These rules do not appear to have an impact on the resolution of this case, but are identified for the Court's consideration. The language of rule 5.241 is not inconsistent with our analysis of the relevant statutory law and the *Pope* decision.

⁴ We understand that the 2006 versions of the statutes pertain to this case. *Golden v. Jones*, 126 So. 3d 390, 394, n.1 (Fla. 4th DCA 2013) ("The 2006 versions of sections 733.702 and 733.710 are applicable in this case because they were in effect at the time of Harry's death on February 16, 2007. *See May*, 771 So.2d at 1150 n. 7 (using decedent's date of death to determine applicable version of the statute).").

creditors must file claims against the estate with the court during the time periods set forth in s. 733.702, or be forever barred.

(2) Publication shall be once a week for 2 consecutive weeks, in a newspaper published in the county where the estate is administered or, if there is no newspaper published in the county, in a newspaper of general circulation in that county.

(3)(a) *The personal representative shall promptly make a diligent search to determine the names and addresses of creditors of the decedent who are reasonably ascertainable, even if the claims are unmatured, contingent, or unliquidated, and shall promptly serve a copy of the notice on those creditors. Impracticable and extended searches are not required.* Service is not required on any creditor who has filed a claim as provided in this part, whose claim has been paid in full, or whose claim is listed in a personal representative's timely filed proof of claim.

(b) The personal representative is not individually liable to any person for giving notice under this section, even if it is later determined that notice was not required. The service of notice to creditors in accordance with this section shall not be construed as admitting the validity or enforceability of a claim.

(c) If the personal representative in good faith fails to give notice required by this section, the personal representative is not liable to any person for the failure. Liability, if any, for the failure is on the estate.

...

(4) Claims are barred as provided in ss. 733.702 and 733.710.

(Emphasis added.).

Section 733.702, in pertinent part, provides:

(1) If not barred by s. 733.710, no claim or demand against the decedent's estate that arose before the death of the decedent, including claims of the state and any of its political subdivisions, even if the claims are unmatured, contingent, or unliquidated; no claim for

funeral or burial expenses; no claim for personal property in the possession of the personal representative; and no claim for damages, including, but not limited to, an action founded on fraud or another wrongful act or omission of the decedent, is binding on the estate, on the personal representative, or on any beneficiary unless filed in the probate proceeding *on or before the later of the date that is 3 months after the time of the first publication of the notice to creditors or, as to any creditor required to be served with a copy of the notice to creditors, 30 days after the date of service on the creditor*, even though the personal representative has recognized the claim or demand by paying a part of it or interest on it or otherwise. The personal representative may settle in full any claim without the necessity of the claim being filed when the settlement has been approved by the interested persons.

(2) No cause of action, including, but not limited to, an action founded upon fraud or other wrongful act or omission, shall survive the death of the person against whom the claim may be made, whether or not an action is pending at the death of the person, unless a claim is filed within the time periods set forth in this part.

(3) *Any claim not timely filed as provided in this section* is barred even though no objection to the claim is filed unless the court extends the time in which the claim may be filed. An extension may be granted only upon grounds of fraud, estoppel, or insufficient notice of the claims period. No independent action or declaratory action may be brought upon a claim which was not timely filed unless an extension has been granted by the court. If the personal representative or any other interested person serves on the creditor a notice to file a petition for an extension, the creditor shall be limited to a period of 30 days from the date of service of the notice in which to file a petition for extension.

Section 733.710, in pertinent part, provides:

(1) *Notwithstanding any other provision of the code, 2 years after the death of a person, neither the decedent's estate, the personal*

representative, if any, nor the beneficiaries shall be liable for any claim or cause of action against the decedent, whether or not letters of administration have been issued, except as provided in this section.

(2) This section shall not apply to a creditor who has filed a claim pursuant to s. 733.702 within 2 years after the person's death, and whose claim has not been paid or otherwise disposed of pursuant to s. 733.705.

(Emphasis added.). These three statutes are clear on their face at least as to the issue before this Court.

Section 733.2121(3) (a) outlines the duty of a personal representative to serve a notice to creditors on reasonably ascertainable creditors. The Legislature provided that if the claims of these reasonably ascertainable creditors are unmatured, contingent or unliquidated claims they still must be served with the notice to creditors. But, the personal representative need not turn over every stone and look in every nook and cranny for this species of creditor. *See Pope*, 485 U.S. at 491; *see* §733.2121 (3) (a), Fla. Stat. (2006); *Estate of Vickery*, 584 So. 2d 555, 558 (Fla. 4th DCA 1990); *Jones v. Sun Bank/Miami, N.A.*, 609 So. 2d 98, 102-03 (Fla. 3d DCA 1992).

As the Court will no doubt recognize, intuitively or after evaluating the applicable case law, the definition of a reasonably ascertainable creditor is hard to articulate in such a way as to capture all possible examples and circumstances. *See* Medlin, Alan S., “Claims-Barring Due Process Concerns, *Probate Practice Reporter*, Vol. 26, no. 8, pg. 3 (August 2014) (“For the state to anticipate every

category of known or reasonably ascertainable creditor that could arise in any particular fact pattern would be problematic, if not impossible.”). It is not enough to identify a potential creditor, it is the nature of the claim and whether it was reasonably ascertainable that also matter. *See Simpson v. Estate of Simpson*, 922 So. 2d 1027, 1029 (Fla. 5th DCA 2006); *Jones*, 609 So. 2d at 102. The potential difficulties in this determination are highlighted in *Strulowitz v. Cadle Company, II, Inc.*, 839 So. 2d 876 (Fla. 4th DCA 2003) and other cases. *See Jones, Id; U.S. Trust Co. of Florida Sav. Bank v. Haig*, 694 So. 2d 769 (Fla. 4th DCA 1997); *Miller v. Estate of Baer*, 837 So. 2d 448 (Fla. 4th DCA 2003); *Faerber v. D.G.*, 928 So. 2d 517 (Fla. 2d DCA 2006).⁵

Strulowitz, for example, involved the decedent’s settlement of a dispute over a promissory note and the decedent’s indebtedness to the Cadle Company. 839 So. 2d at 877. The personal representative was the decedent’s son, who testified he knew nothing of the creditor or the debt until an employee of Cadle called him in 2001, months after the 3 month time limitation passed. 839 So. 2d at 878. The personal representative testified about the nature of his diligent search for creditors:

My diligent search included the following: I went through all my father’s personal and business files. I went through the decedent’s checkbook for

⁵ Some of these cases might have been decided differently after the adoption of section 733.2121 in 2001, effective 2002 (service of notice to creditors is required even if their claims are “unmatured, contingent, or unliquidated....”).

the year 2000. I spoke with my brother regarding my father's debts. I went through my father's bills and correspondence to determine creditors.

Id. He served approximately 19 creditors with a notice to creditors. *Id.* In a somewhat unusual move, the circuit court appointed an "attorney ad litem" to investigate and report on whether the Cadle claim was reasonably ascertainable. *Id.* In the ad litem's report opining that Cadle was reasonably ascertainable, he "acknowledged the difficulty he had tracking down the company and the debt. He noted that Cadle did not send a payment book to the decedent, record the settlement, or send out a delinquency notice after failing to receive the June 2000 payment." *Id.* The ad litem said he did find some legible, historical entries of check payments in the decedent's check register, but then reported:

I checked the local Broward County phone book to find a listing for Cadle. I was unsuccessful so I called information and I was told that there was no listing for Cadle in the State of Florida. I asked about other states and I was told that I would have to call every state in the union. This alone I believe was impracticable for a personal representative to act on.

...

I made one final query when I called the operator to learn if a toll free number for Cadle existed. The operator provided [me] with a toll free number for Cadle.

...

I called the number and read the number listed on the bottom of the check. The individual could not locate the number and asked me if it was an old account. She then asked me for a Social Security number and I gave her the decedent's social security number. She *879 found the account and transferred my call.

839 So. 2d at 878-79. The circuit court determined that under the totality of circumstances the personal representative's search was inadequate and that the Cadle claim was reasonably ascertainable. 839 So. 2d at 881. The personal

representative argued there was no legal authority requiring him to do more than he did. To that the appellate court noted:

In so arguing, the personal representative highlights a concern that makes his appeal problematic: the absence of any written rules or guidelines on specific steps that an estate administrator must take during the course of a diligent search.

Reviewing that decision on an “abuse of discretion” standard, the appellate court affirmed. *Id.* The district court of appeal, in obvious frustration, asked this Section to develop a rule to assist personal representatives in making an appropriate search and in identifying reasonably ascertainable creditor claims. *Id.* at n. 3. The Section was no less frustrated in its effort to satisfy the court’s request, worked on the issue for at least two years, and gave up trying, at least for now....⁶ Obviously the trial court must decide this question on a case by case basis.

⁶ A list of “items constituting a diligent search” is offered at 18 Fla. Jur. 2d, Decedent’s Property, §624. The list, however, is ambiguous (eg “examining all bills” could mean dating back a lifetime; in *Sturlowitz*, 17 months was not enough), and certainly would not be sufficient in all cases, and might take over 2 years in other cases, and would no doubt be expensive. Oklahoma, the state directly involved in *Pope* has a statute that defines an appropriate search as: “If reasonable under the circumstances, such efforts shall include the personal representative's conducting a search after the decedent's death and prior to the filing of the notice to creditors, of the personal effects of the decedent.” 58 OKLA. STAT. § 331.1 (Supp. 1989). This might be misread by many to suggest that a mere search of the decedent’s personal effects is enough. That would be an error. *See Estate of Vann*, 925 P.2d 80, 81 (Ct. App. Okla. 1996) (“By statute, the diligent effort by the personal representative to determine the identity of creditors ‘shall include ... a search ... of the personal effects of the decedent,’ but is not limited to such search.

Assuming for now, that the personal representative can readily discern the reasonably ascertainable creditors he, she or it must serve, the applicable statute of limitation is clearly expressed in 733.702(1): the later of 3 months from first publication of the notice to creditors or 30 days after service of the notice by the personal representative. Assuming no service by the personal representative, the creditor *must* file a claim within two years of the decedent's date of death.

§733.710, Fla. Stat. There are no exceptions. Section 733.710 is a statute of repose. *May v. Illinois Nat. Ins. Co.*, 771 So. 2d at 1155-56.

The law seems clear that a personal representative must serve a reasonably ascertainable creditor and the statute of limitation in 733.702(1) does not begin to run until the personal representative perfects that service. Because the law is clear on these points, it is not subject to interpretation. *See Pewtty v. Florida Insurance Guaranty Ass'n*, 80 So. 3d 313, 316, n.3 (Fla. 2012); *Kephart v. Hadi*, 932 So. 2d 1086, 1091 (Fla. 2006); *May v. Illinois Nat'l. Ins. Co.*, 771 So. 2d at 1156. That said, if the law as to these points is subject to interpretation, then, if possible, it must be interpreted in a manner that would make the law constitutional. *See State*

The effort must generally be 'reasonable under the circumstances.'"). We made a reasonable, but not exhaustive, search of cases, statutes, rules and treatises and found nothing the Section might offer that would serve as a useful rule for practitioners and all other Floridians beyond what we already have, but the Section will continue to consider the issue.

v. Jefferson, 758 So. 2d 661, 664 (Fla. 2000); *Murray v. Mariner Health*, 994 So. 2d 1051, 1057 (Fla. 2008). Except in the case of the statute of repose, which is self-executing, it would seem that requiring a reasonably ascertainable creditor to take steps to preserve a claim absent service on that creditor of a notice to creditors would disregard the creditor's entitlement to notice and the personal representative's obligation to give it, and would violate the Fourteenth Amendment to the United States Constitution as explained in *Pope*. See *Estate of Puzzo*, 637 So. 2d 26 (Fla. 4th DCA 1994).

In light of these points, how did the courts in *Morgenthau v. Estate of Andzel*, 26 So. 3d 628 (Fla. 1st DCA 2009); *Lubee v. Adams*, 77 So. 3d 882 (Fla. 2d DCA 2012); and *Souder v. Malone*, 2014 WL 3756356 (Fla. 5th DCA, August 1, 2014) reach a result in conflict with the Section's analysis and in conflict with *Golden v. Jones*, 126 So. 3d 390 (Fla. 4th DCA 2013) and *Puzzo*?

It appears that all three appellate courts were distracted by Section 733.702 (3), Florida Statutes (2006), so we should examine that provision closely and how it is in harmony with 733.2121 (3) and 733.702 (1) in a constitutionally sound way.

Section 733.702 (3) begins with the provision that a claim *not timely filed* under 733.702 (1) is barred even though no objection to a tardy claim is filed. So, as long as the personal representative met its obligations to publish notice to

creditors and to serve the reasonably ascertainable creditors, then the personal representative need do nothing more, even if a creditor files a tardy claim.⁷

The problem is: what certainty does the personal representative have in a situation where the potentially tardy creditor was not served with a notice to creditors other than by publication? Is the claim really tardy or was the claim reasonably ascertainable, requiring actual service on the creditor by the personal representative? If the personal representative has identified this would-be creditor and desires clarity on this issue, section 733.702(3) permits the personal representative to serve a notice to petition for extension of time on the would-be creditor, which requires a response in 30 days. In this way the personal representative has not committed to the creditor being reasonably ascertainable. The personal representative has only committed to getting the issue of whether the creditor's claim was reasonably ascertainable resolved by the court.

From the creditor's standpoint in this scenario, how can the creditor be sure it was reasonably ascertainable and entitled to service of the notice to creditors? The creditor can respond to the personal representative's notice to petition for extension of time or, independently, serve a petition for extension of time based on insufficient notice, as contemplated by 733.702 (3). Assuming the two-year statute

⁷ Before the adoption of 733.702 (3) in 1988 (88-340, Laws of Florida), a personal representative had to move to strike a tardy claim or otherwise object to it on the ground of tardiness. *See Barnett Bank v. Estate of Read*, 493 So. 2d 447, 449 (Fla. 1986).

of repose is fast upon the would-be creditor, that creditor would wisely also file a creditor's claim.

We have already discussed the fact that oftentimes there is no clear answer to which creditor claims are reasonably ascertainable and it is a case-by-case analysis for the judge sitting in probate. Section 733.702 (3) offers the creditor, personal representative, and other interested persons the option of seeking clarity on these issues and speeding up the determination, nothing more. *See* Pilotte, Frank, *Practice Under The Florida Probate Code*, §8.7, pgs. 8-16 and 8-17 (7th Ed. 2012). Indeed, the anxiety and slothful resolution of estates that the first sentence of 733.702(3) might cause, generated the amendments to 733.702(3) to permit the optional processes for would-be creditors and personal representatives described above. *See* 89-340, §5, Laws of Fla.

A reasonably ascertainable creditor, however, need not avail itself of the option offered in 733.702(3) and can rely on the belief that it was reasonably ascertainable, was not properly served, and filed its claim before the two-year statute of repose foreclosed its claim. Similarly, a personal representative can do nothing and hope a lack of actual service of a notice to creditors on a creditor was appropriate or that two years will pass without a claim being filed.⁸

⁸ Under this scenario, the personal representative will be inclined to wait to distribute assets to the beneficiaries and creditors with valid claims until after the two year statute of repose in 733.710 has run or it will require a refunding

The *Morgenthau* decision, on which its sister courts rely in *Lubee* and *Souder*, also seemed to base its decision, in part, on language in section 733.705 (6), Florida Statutes (2006), which provides:

(6) A claimant may bring an independent action or declaratory action upon a claim which was not timely filed pursuant to s. 733.702(1) only if the claimant has been granted an extension of time to file the claim pursuant to s. 733.702(3).

26 So. 3d at 630. But, the quoted language only begs the question of whether a claim was timely filed under 733.702 (1). The language does not answer the question other than to send us back to the clear limitation language of 733.702 (1), which provides that a reasonably ascertainable creditor who is not served with notice to creditors is not barred from filing a claim by that statute. The creditor will only be barred under that circumstance by the two-year statute of repose, 733.710, if the creditor fails to file its claim within the two year limitation period. *Puzzo*, 637 So. 2d at 27.

The *Morgenthau* court's analysis may have been hampered by the appellant's apparent concession in that case that his claim was untimely. *Morgenthau*, 26 So. 3d at 630. Given that concession, the *Morgenthau* court may have reached the correct result, *albeit* for the wrong reasons.

agreement or rely on section 733.812, Florida Statutes (2006) for the return of improper distributions. *See* 733.802, Fla. Stat. (2006); 733.705 (1), Fla. Stat. (2006).

Bottom line, the *Morgenthau*, *Lubee*, *Souder* trilogy appear to miss the fundamental point clear in Florida law and under the United States Constitution after *Pope*, that the reasonably ascertainable creditor is *entitled* to actual notice as a matter of due process. *See Puzzo*, 637 So. 2d at 27. A personal representative is obligated to provide that actual notice. §733.2121(3)(a), Fla. Stat. (2006). And, if the personal representative fails to give that notice, only the two-year statute of repose can bar the creditor's claim. §733.710, Fla. Stat. (2006). Any appellate decision reading our law in a way that emasculates the personal representative's *duty* to give, and the reasonably ascertainable creditor's *right* to receive, actual notice, is contrary to Florida law and the Fourteenth Amendment to the United States Constitution, and, therefore, should be overruled.

The Uniform Probate Code addresses the *Pope* due process concerns in certain ways that differ from Florida's approach. But in some ways the U.P.C. and Florida approaches are almost identical except the time periods are different: 4 months instead of Florida's 3 months on publication, 60 days instead of Florida's 30 for creditors served with a notice to creditors, and a 1 year statute of repose, instead of Florida's 2 years. *See* U.P.C. §§3-803, 3-801. Interpreting the nearly identical UPC time bar scheme for creditors, Professor Alan Medlin, University of South Carolina College of Law, concludes:

Thus, under the post-*Tulsa* [*Pope*] UPC process, if the personal representative does not provide actual notice, the known creditor will

not be barred by the time period commenced by notice because the 60 days from actual notice time period was never triggered. However, the other time period, ending one year from date of death, applies even to known creditors. So if the creditor fails to present a claim within that one-year period, the claim is barred.

Medlin, Alan S., *Id.*, at pg. 4. *See Estate of Kotowski*, 704 N.W.2d 522, 527 (Minn. Ct. App. 2005); *In re Estate of Emery*, 258 Neb.789, 606 N.W.2d 750, 755-56 (2000); *In re Estate of Russo*, 994 P.2d 491, 495 (Colo.Ct.App.1999); *In re Estate of Anderson*, 821 P.2d 1169, 1172 (Utah 1991) (all interpreting UPC same as professor Medlin and consistent with the Section's analysis of Florida law).

CONCLUSION

For the reasons expressed in this brief, we believe the legal reasoning in *Morgenthau, Lube, and Souder* should be rejected by this Court. The legal reasoning of the appellate court below seems to be consistent with Florida law and *Pope*. As is our practice, the Section offers no opinion about the appropriate outcome for the litigants in this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I CERTIFY that a true copy of this brief was served through the e-portal on William H. Glasko, Golden & Cowan, P.A., counsel for respondent, bill@palmettobaylaw.com; Robin F. Hazel, Hazel Law, P.A., counsel for petitioner, robinhazel_esq@yahoo.com, hazellawpa@gmail.com this 9th day of September, 2014.

/s/ Robert W. Goldman, FBN339180

CERTIFICATE OF FONT COMPLIANCE

I certify that this brief complies with the font requirement of rule 9.210 (a) (2), Florida Rules of Appellate Procedure.

/s/ Robert W. Goldman, FBN339180

Date	Title of Seminar/Committee	Committee	Location	Program Chair	Speakers	CLE Committee Liaison
November 13-16, 2014	EXECUTIVE COUNCIL MEETING		Naples			
11/19/2014	<i>Bank of America Settlement</i>	<i>Real Property Litigation</i>	e-CLE	Manny Farach		Hardy Roberts
December 6, 2014	Probate Law		Tampa			Sarah Butters
December 3, 2014	<i>Land Use Planning</i>		Tampa	Vinette Godelia		Jennifer Tobin
January 15, 2015	<i>Attorneys' Fees in a Variety of legal areas</i>	<i>Real Property Litigation</i>	e-CLE	Manny Farach		Hardy Roberts
February 6 - 7, 2015	Real Property Certification Review		Orlando			Laura Young/Jennifer Tobin
February 18, 2015	<i>Estoppel letters</i>	<i>Landlord Tenant</i>	e-CLE	Brenda Ezell		Hardy Roberts
February 27, 2015	Trust and Estate Litigation Symposium		Ft. Lauderdale			Sarah Butters
March 12 - 14, 2015	Construction Law Institute		Orlando	Reese Henderson		Bob Swaine
March 12 - 14, 2015	Construction Law Certification Review		Orlando	Deborah Mastin		Bob Swaine
March 19-22, 2015	EXECUTIVE COUNCIL MEETING		Orlando			
<i>3/19/2015</i>	eCLE in connection with the Executive Council Meeting		Orlando			
April 10 - 11, 2015	Wills and Trust Certification Review		Orlando	Rick Gans		Laura Sundberg
April 10, 2015	Condominium and Planned Development		Tampa	Steve Mezer		Larry Miller/Rob Freedman
June 6, 2015	Convention seminar		Miami Beach			Laura Young
June 4-7, 2015	EXECUTIVE COUNCIL MEETING		Miami Beach			
Normal Text	→ in-person (full day or conference) programs					
<i>Italics</i>	→ e-CLE (PowerPoint on computer and telephone) programs					
BOLD	→ Executive Council meetings					

RPPTL 2015 - 2016
Executive Council Meeting Schedule

Michael J. Gelfand's YEAR

<u>Date</u>	<u>Location</u>
July 30, 2015 – August 1, 2015	Executive Council Meeting & Legislative Update The Breakers Palm Beach, Florida Reservation Link: https://resweb.passkey.com/go/FLBAR15 Room Rate: \$218 Cut-off Date: June 30, 2015 Conference Code: FLBAR15
September 30, 2015 – October 4, 2015	Executive Council Meeting/Out of State The Ritz Carlton Berlin, Germany Reservation Phone # +49 (0)30-33 777- 5555 Reservation Link: http://www.ritzcarlton.com/en/Properties/Berlin/Reservations/Default.htm?nr=1%26ng=1%26gc=tfbtfba Room Rate: €210 Cut-off Date: September 2, 2015 Conference Code: tfbtfba
November 11- 15, 2015	Executive Council Meeting Boca Raton Resort and Club (<i>Contract Pending</i>) Boca Raton, FL Room Rates ¹ : Cloister Estate Room: \$220.00 Cloister Suite: \$475.00 Yacht Club Waterway Room: \$275.00 Tower Room: \$220.00 Tower Junior Suite: \$260.00 Cut-off Date: October 21, 2015 <i>Reservations link will be published 11 months prior to event.</i> Conference Code: [To Be Announced]

¹ Boca Raton Hotel & Resort Requested Information and Further Notes: \$20.00 daily resort fee separate and distinct from the sleeping room rate and applicable taxes. Resort fee includes: Roundtrip Bellman Gratuities; Wireless Internet in Guest Rooms and Public Space (Not Meeting Rooms); Local, 800 & Domestic Long Distance Phone Calls; Beach Umbrellas at the Boca Beach Club; Specialty Fitness Center classes including yoga and Pilates; and Unlimited Driving Range Usage and Golf Club Storage. Guests wishing to avoid an early checkout fee should advise the Hotel at or before check-in of any change in planned length of stay. Guests should check with the Hotel to make certain all incidental charges are paid prior to departure.

February 25, 2016- February 28, 2016
(NOTE REVISED DATE)

Executive Council Meeting

Marriott Tampa Waterside *(Contract Pending)*

Tampa, Florida

Room Rate: \$224

Cut-off Date: January 13, 2016

Conference Code: [To Be Announced]

June 1 - 5, 2016

Executive Council Meeting / RPPTL Convention

Loews Portofino Bay Hotel

Orlando, Florida

Room Rate \$219

Cut-off Date: May 2, 2016

Reservations link will be published 11 months prior to event.

Conference Code: [To Be Announced]