#### LEGISLATIVE UPDATE

### TRUST AND ESTATE SECTION COLLIER COUNTY BAR ASSOCIATION

May 11, 2011

LAIRD A. LILE

Confirms prior intention to treat inherited IRAs the same as other IRAs

States that
Robertson v.
Deeb was
decided contrary
to that intention

Clarification of existing law

#### "Inherited IRAs"

■ CS/HB 469

Effective date: Remedial

#### Removes uncertainty of Court's holding in Olmstead

Remediates the holding in Olmstead to clarify current law does not extend to a multimember LLCs

Provides procedures for single-member LLC

#### "Olmstead Fix"

Charging Orders for Florida Limited Liability Company

■ CS/HB 253

Effective date: Remedial

No descendants: 100% to surviving spouse

Only common desc.: 100% to surviving spouse

All other situations: 50% to surviving spouse

#### Intestacy Revised

■ CS/HB 325

Effective date: October 1, 2011 (decedent's dying after?)

## Previously allowed to correct ambiguities

Now allowed to correct mistakes of fact or law

### Reformation of Wills

CS/HB 325

Effective date: July 1, 2011 (actions brought after?)

## Voiding a Revocation of a Will or Trust

Privileged and protected from disclosure

FINALLY!

NB: Notice of Administration

# Fiduciary Lawyer-Client Privilege

"The name and address of the personal representative ..., and that the fiduciary lawyerclient privilege in 90.5021 applies th respect to the personal representative and any attorney employed by the personal representative."

## Notice of Administration

...and that the <u>fiduciary</u> lawyer-client privilege in s. 90.5021 applies with respect to the trustee and any attorney employed by the trustee."

## Notices to Trust Beneficiaries

F.S. §198.13(4)

"No returns after 2004" expired at the end of 2010

2010 now 2012

## Florida Estate Tax Returns

Rule: Any party seeking ...costs, attorneys fees or both shall serve a motion no later than 30 days after ...

Not Applicable to: Payments from trust for trustee's attorney

Which share of trust to be paid from

#### Avoiding Rule 1.525

..action challenging the ward's revocation of ... trust is not in the ward's best interests if the revocation relates solely to a devise.

#### Guardians

#### Modeled after Uniform Act

#### Avoid overlap:

(d) "Institution" means:

...other than
A trust subject
to s. 518.11;

. . .

#### **FUPMIFA**

Florida Uniform Prudent Management of Institutional Funds Act

■ CS/CS/CS/HB 599

#### Power of Attorneys

This is

Effective date: October 1, 2011

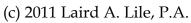
(c) 2011 Laird A. Lile, P.A. <a href="https://www.LairdALile.com/resources">www.LairdALile.com/resources</a> for copy of slides with links to legislation

#### Power of Attorneys

No longer just Florida Statutes §709.08 Now, Part II of Chapter 709 Sections 709.2101 to 709.2402 "Florida Power of Attorney Act"

Protections for <u>Agents</u>
Protections for <u>Principals</u>
Protections for <u>Third Parties</u>

Effective date: October 1, 2011





#### Power of Attorneys

Significant Changes:

No more springing powers

Certain powers require signature or initial next to enumerated power

Mostly estate planning related

Grandfathering of pre-October 1, 2011 powers

Successor agents clearly permitted

Effective date: October 1, 2011

CS/SB 670

#### Did not pass

"Yankee Tax"
Estate Tax on Non-Residents

#### Paralegal Regulation

"Disqualified Heir"
Lose Inheritance Rights for Child Abuse

#### **Court Initiatives**

This is not as

BIG

as it might have been....

#### Constitutional Amendment Ballot Issues

Changes to Judicial Qualification Commission procedures Senate Confirmation of judicial appointments Changes to court rule making procedures

Late addition: study of the court and court functions

