

# LEGISLATIVE UPDATE

## TRUST AND ESTATE SECTION COLLIER COUNTY BAR ASSOCIATION

May 11, 2011

**LAIRD A. LILE**

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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

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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?)

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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?)

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# Voiding a Revocation of a Will or Trust

▣ CS/HB 325

Privileged and  
protected from  
disclosure

FINALLY!

NB: Notice of  
Administration

# Fiduciary Lawyer-Client Privilege

▣ [CS/HB 325](#)

“The name and address of the personal representative ..., and that the fiduciary lawyer-client privilege in s. 90.5021 applies with respect to the personal representative and any attorney employed by the personal representative .”

# Notice of Administration

▣ CS/HB 325



...and that the  
fiduciary  
lawyer-client  
privilege in s.  
90.5021  
applies with  
respect to the  
trustee and any  
attorney  
employed by  
the trustee.”

# Notices to Trust Beneficiaries

▣ CS/HB 325

F.S. §198.13(4)

“No returns  
after 2004”  
expired at the  
end of 2010

2010 now 2012

# Florida Estate Tax Returns

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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

▣ CS/HB 325

# Guardians

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

▣ CS/HB 325

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

# BIG

Effective date: October 1, 2011

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# 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 Agents

Protections for Principals

Protections for Third Parties

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CS/SB 670

# 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

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# 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

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**RPPTL-PAC  
and  
Real Property, Probate and Trust Law  
Section of The Florida Bar**

**LEGISLATIVE AND CASE  
LAW UPDATE**

**August 5, 2011**

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