ISBA Bankruptcy & Creditors' Rights Section Legislative Committee – Position Statement Process

Draft v.2 11/22/22

Step 1: Issue Analysis: Is this legislation or topic pertinent to the section?

The Legislative Committee will analyze the topic and determine if it falls within an area of interest of our membership

Step 2: Position Analysis: Are there differing policy positions regarding this legislation or topic amongst broad categories of the membership?

- We represent debtors, creditors, attorneys who represent institutions, attorneys that represent individuals, etc.

- Oftentimes with pending legislation, different segments of our membership will have different opinions about legislation, particularly controversial legislation

- There is some legislation where all major interest groups in our membership will be united. An example of this is last year's attempt to rewrite wholesale the state's collection law. A possible example for this year is bankruptcy venue

- To determine if there is a major difference of opinion, the legislative committee must consult with the overall Section Council and its membership and, if the Section Council believes it is necessary, should conduct research on the general members' opinion

Step 3: Preparation of Position Statements

If the Step 2 analysis confirms that there is a difference of opinion, individual members of the Legislative Committee will be assigned a position, one from each differing opinion, to research, analyze, and prepare a Position Statement.

If there is no difference of opinion, the entire Legislative Committee will prepare a Unified Position Statement.

Step 4: Position Statement Review

Position Statements will be submitted for review by a quorum of the full Section Council. Unified Position Statements must be approved by a quorum of the full Council (and through other ISBA processes as necessary) before becoming an official position of the Section.

Split position statements are not official positions of the Section but are instead intended to educate the legislature/legislator on the various positions and arguments of our interest groups. For example, imagine legislation increasing the amount of the intangible exemption. Assume that the debtors' bar is in favor of the change and the creditors' bar is opposed. The split position statement would summarize both positions for the benefit of the legislature/legislator. A quorum of the full Section Council will review these position statements for approval, but these will not be considered official positions of the Section.

Step 5: Communicate information to the legislature/legislator

The resulting document will be communicated to the legislature/legislator and the public through the Section Chair, the Legislative Committee Chair, and/or the ISBA Legislative Counsel as appropriate.