

from **STEVE LEIMBERG'S ESTATE PLANNING EMAIL NEWSLETTER**
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Review of Estate Planning and Asset Protection in Florida

My father always said,

“You’ll learn as much by NOT reading as you would if you couldn’t read!”

This is a review of a very valuable legal resource– authored by [LISI](#) Commentator attorney **Barry Nelson**. This 884-page treatise will be of great help in your practice – no matter where you practice! It provides an integrated process of considering tax, people, and asset protection planning simultaneously.

The subtitle of this book is:

“A Plan to Survive Unexpected Financial Threats.”

And that’s what so different about this book; it addresses not only threats to the client but also threats to the practitioner. Each chapter addresses not only the biggest traps for the client but also the biggest traps for professionals advising clients. Barry points out the legal quicksand in every practice area covered. That alone may save your assets!

Probably every law firm in the country that handles estate planning has or will have a client who has a home now or who will someday move to Florida. In fact, you yourself may move there or already have a home there! So even though you may be living or practicing far outside of Florida, *Estate Planning and Asset Protection in Florida* is a resource that should be on your shelf – and required reading before your client moves to Florida!

Furthermore, I found that a number of chapters of the book, while referring to Florida issues, apply as well in other states and accordingly the book is a useful resource regardless of where you practice. For example, in Chapter 7- Spousal Transfers, you’ll find a summary of each state’s tenancy by the entirety provisions. Chapter 8-Inter vivos QTIP and SLATs contains a summary of each state that has inter vivos QTIP statutes. Chapter 9-Use of Partnerships and LLCs will be helpful no matter where you practice.

Of course, all practitioners will find Chapter 10-Use of Domestic Asset Protection Trust Planning – contains essential federal information as does Chapter 11 Offshore Asset Protection Planning (written by **Alexander Bove** who has authored many [LISI](#) commentaries). Chapter 12-Third Party Created Trusts – will help you distinguish Florida law with other states’ laws including that of Nevada, Delaware and South Dakota.

You'll also find Chapter 13 Planning for Athletes, Entertainers and Lottery Winners provides discussion that – although specifically related to the Florida lottery – also covers many issues that apply to most states.

Another good example is Chapter 14- Planning for Same Sex Couples. Again, while some of the discussion is state specific, it raises many issues that need to be considered no matter what state you practice. Likewise, Chapter 15-Financial Elder Exploitation; while there are citations to Florida law, most of the issues are universal. Much of the discussion in this resource has national implications such as fraudulent conveyances, disciplinary actions, ethics and malpractice and potential liability as an attorney providing asset protection advice.

I particularly found comparisons of state laws helpful. For example, there is a comparison of Inter Vivos QTIP Trust Statutes. And Barry points out where other states provide a more favorable situs than Florida (e.g. there is a detailed discussion of why it is safer to create a discretionary trust in a state other than Florida that clearly addresses exception creditors).

Finally, I love books that are loaded with and carefully cite case law, the actual state statutes upon which advice is given (including the relevant articles from the Florida Constitution), the Code (both Internal Revenue and Bankruptcy), and various sample documents and state forms (e.g. Florida Lottery Winner Claim Form) and Instructions (e.g. Instructions to Create a Florida Limited Liability Company). *Estate Planning and Asset Protection in Florida* has all of this and much, much more.

Don't leave your home(stead) without it!

HOPE THIS HELPS YOU HELP OTHERS MAKE A POSITIVE DIFFERENCE!

Steve Leimberg

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