

**REPORT OF THE**

**Virginia Commissioners  
to the National Conference  
of Commissioners on  
Uniform State Laws**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**House Document No. 2**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1985**

**VIRGINIA COMMISSIONERS**

Carlyle C. Ring Jr.

Brockenbrough Lamb Jr.

H. Lane Kneedler III

Stephen G. Johnakin

John B. Boatwright Jr.

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**ASSOCIATE MEMBERS**

John A. Banks Jr.

Mary P. Devine

**Report of the  
Virginia Commissioners to National Conference of  
Commissioners on Uniform State Laws  
To  
The Governor and the General Assembly of Virginia  
Richmond, Virginia  
July 1, 1983 - June 30, 1984**

To: Honorable Charles S. Robb, Governor of Virginia,  
and

The General Assembly of Virginia

The General Assembly adopted two Uniform Acts during the 1984 Session. The General Assembly adopted substantial portions of the Uniform Unclaimed Property Act which will increase the revenues to the state and, at the same time, assure due process for the owners of unclaimed property to discover and reclaim it. Additionally, the amendments to Article VIII of the Uniform Commercial Code making provision for "uncertificated securities" were adopted. This will make it possible for corporations within Virginia to be competitive with those organized or operating under the laws of other states. The General Assembly had under consideration two additional Uniform Acts—the Uniform Conflict of Laws-Limitations Act and the Uniform Limited Partnership Act. Both were deferred for further consideration to the 1985 Session of the General Assembly.

In 1983, Virginia adopted the Uniform Audio-Visual Deposition Act, and in 1982, the Uniform Disposition of Community Property Rights at Death Act and the ULC Model Real Estate Cooperative Act. Virginia has now adopted 32 Uniform Acts on the "active list," including the Uniform Commercial Code.

**ACTIVITIES OF THE VIRGINIA COMMISSIONERS**

Virginia was honored at the 1983 Annual Meeting by the election of Virginia Commissioner Carlyle C. Ring Jr. as President for a two-year term beginning August 1983. Commissioner Ring is the first Virginian to hold the post of President in the 92-year history of the National Conference.

The Virginia Commissioners have served on the following committees during the past year:

Brockenbrough Lamb Jr. - Chairman, Standby Committee on Uniform Limited Partnership Act; Member, Standby Committee on Uniform Transfers to Minors Act.

H. Lane Kneedler III - Member, Drafting Committee on Criminal Records.

Stephen G. Johnakin - Member, Drafting Committee on Business Opportunities Act; Member, Standing Legislative Committee and Legislative Council for that Committee.

Carlyle C. Ring Jr. - President of the Conference, Ex-Officio member of every drafting and administrative committee; Member, Drafting Committee on Uniform Payments Code (Amendments to U.C.C. Articles II and VI); Member, A.B.A. House of Delegates representing the Conference.

**REPORT OF THE PROCEEDINGS OF THE**

**ANNUAL CONFERENCE IN BOCA RATON, FLORIDA**

The Annual Conference was held in Boca Raton, Florida, from July 29, 1983, to August 5, 1983. Commissioners Lamb, Ring, Kneedler and Johnakin, and Associate Commissioner Mary P.

Devine were in attendance.

The Commissioners from the various states include practicing attorneys, law professors, state legislators, and state and federal judges. All Commissioners serve without compensation with reimbursement of their expenses only. The process by which Uniform Acts are promulgated is thorough, involving frequent meetings of the Drafting Committee, oversight by the Review Committee, line-by-line consideration by the entire Conference at least twice, a vote by the states and consideration by the A.B.A. House of Delegates.

The Annual Conference in Boca Raton adopted the following Uniform Acts for consideration by the states:

Uniform Transfers to Minors Act

Uniform Premarital Agreements Act

Uniform Succession Without Administration Act

Uniform Marital Property Act

In addition, the Conference considered on first or partial reading the Defense of Insanity Act, New Payments Code, Revised Uniform Securities Act, Statutory Wills Act, and Revised Uniform Fraudulent Conveyance Act.

During the year 1983-84, the following Committees met to present Acts for first reading in 1985 or 1986:

Business Opportunity Act

Criminal Records Act

Health Records Act

Rights of the Terminally Ill Act

Personal Property Leasing Act

Summaries of the Acts promulgated at the 1983 Conference are attached.

#### **RECOMMENDATIONS FOR ENACTMENT**

The Virginia Commissioners recommended the following Uniform and Model Acts for consideration by the General Assembly:

Revised Limited Partnership Act

Uniform Conflict of Laws-Limitations Act

Uniform Transfers to Minors Act

Uniform Common Interest Ownership Act

Uniform Conservation Easement Act

Uniform Extradition and Rendition Act

Uniform Law on Notarial Acts

Uniform Trade Secrets Act

Uniform Marital Property Act

Model Health Care Consent Act

Uniform Probate Code\*

The Virginia Commissioners strongly recommend the adoption of the Uniform Limited Partnership Act in the 1985 Session. It was deferred in 1984 to afford the State Corporation Commission and others an opportunity to make recommendations concerning the administration of the Act. It is anticipated that with some minor amendments conforming the Uniform Act to Virginia procedures the Act will have the active support of all interested parties. The Internal Revenue Service has issued a favorable tax ruling for limited partnerships that are established under the revised Uniform Act. Twenty other states have adopted the revised Act. If Virginia is to provide a favorable climate for the organization of limited partnerships, it is essential that the revised Act be enacted.

It is also strongly urged that the Uniform Transfers to Minors Act (which supersedes the Uniform Gift to Minors Act) be enacted. The new Act affords the opportunity to transfer for the benefit of minors additional kinds of property under simplified procedures. The Virginia Commissioners also urge for consideration in the 1985 Session the Uniform Conflict of Laws-Limitations Act, the Uniform Common Interest Act (which closes loopholes that exist when common ownership is other than by condominium or cooperative), and the Uniform Premarital Agreements Act (where uniformity is particularly important for the elderly whose premarital agreement maybe become operative after they move to or acquire property in other states).

### **STATE APPROPRIATIONS**

Virginia's contribution to the operations of the Conference is relatively small, including a contribution of \$12,000 in 1985 and travel expenses for the Virginia Commissioners to the Annual Conference. The contribution for each state is based upon population.

The Commissioners from the various states all participate without any compensation for their time and effort. The Conference estimates that each Commissioner devotes approximately 200 hours a year to the Conference work, including work on the various drafting committees and attendance at the Annual Meeting. The cumulative value of this donated time in the development of Uniform and Model Acts averages above \$5,000,000 a year on a conservative basis. The total costs to the states for the effort was a little over \$500,000 in 1983-84. The largest contribution is over \$40,000 and the smallest is \$3,600. Since in many areas of law to which the Conference devotes itself uniformity is either required or highly desirable, the work product of the Conference obviously guarantees a very substantial return on each dollar invested by the various states. The average number of Uniform Acts on the "active list" adopted in all states is 32, and Virginia has adopted 33 Uniform and Model Acts on the "active list".

The work of the Conference also has been useful because it strengthens the state and federal system of government. In many areas of the law, either the states must solve the problem through cooperative action, or the issues are likely to be preempted by Congress. The Conference is one of the few institutions that pursue solutions to problems on a cooperative basis by the states. Without the Conference, more legislative activities would undoubtedly shift from the state capitals to Washington.

The full-time staff of the Conference is comprised of six people, located in Chicago. The reporters to the Drafting Committees either contribute their time or receive a very modest honorarium (usually \$1,000 for two or more years effort).

### **NEW DRAFTING COMMITTEES**

During the past year, the Conference has appointed new drafting committees which will be reporting to the Conference this summer and at future meetings, including:

Revised Article VI to the Uniform Commercial Code (Bulk Sales Act)

Revised Uniform Evidence Act

In addition, the Conference is studying the possibility of appointing drafting committees on the new biology, including surrogate mothers, revision to the Adoption Act, Mineral Oil and Gas Act, Complex Litigation Act, Alternative Dispute Resolutions Act, and revisions to the Anatomical Gift Act.

**REQUEST FOR TOPICS APPROPRIATE FOR**

**CONSIDERATION AS UNIFORM ACTS**

The Conference welcomes suggestions from the General Assembly, the Governor, executive agencies, and the Attorney General as to topics that might be appropriately considered by the Conference where there exists a need for uniformity in the law among the various states, and it can be anticipated that a majority of the states would probably adopt such an act.

Respectfully submitted,

Carlyle C. Ring Jr.

Brockenbrough Lamb Jr. \*

H. Lane Kneeder III

Stephen G. Johnakin

John B. Boatwright Jr. \*

Mary P. Devine (Associate Commissioner)

June 30, 1984

\* Commissioners Lamb and Boatwright believe that the current Virginia law, with minor amendments, would be superior to the Uniform Probate Code.

## APPENDIX

### SHORT SUMMARIES, 1983 ACTS

#### UNIFORM MARITAL PROPERTY ACT

The Uniform Marital Property Act (UMPA) creates a new category of property known as marital property. It is composed of all property of spouses, with certain exceptions known as individual property. All property of spouses is presumed to be marital property. Each spouse has a present undivided one-half interest in the marital property. Although marital property exists, notwithstanding the title record, management and control generally follow title. UMPA provides for creditors' rights and enforcement between marital partners. Deferred employment benefits and life insurance ownership and proceeds are specifically considered. All aspects of establishing marital property are considered.

#### UNIFORM PREMARITAL AGREEMENTS ACT

The Uniform Premarital Agreements Act (UPPA) authorizes prospective marital partners to enter into agreements concerning the marital relationship before the marriage takes place. A valid agreement must be in writing and signed by both parties. Consideration is unnecessary. Rights and obligations with respect to property, including the disposition of property at separation, divorce or death, may be settled in such agreements. Agreements must be entered voluntarily. Disclosure of information concerning property is required, unless waived. Enforcement of such agreements is also provided.

#### UNIFORM SUCCESSION WITHOUT ADMINISTRATION ACT

The Uniform Succession Without Administration Act (USWAA) permits estates to be distributed without administration by a court of probate to heirs in intestate estates, and residuary devisees in testate estates, provided that all heirs or residuary devisees join in application for succession without administration. The "universal successors," as the heirs or residuary devisees become, agree to assume all liabilities of the decedent to the extent each shares the estate. They are also liable to any unfound or excluded distributees for their shares, as well. Universal succession is an alternative to administration of an estate. Ordinary estate administration remains available when needed. Any estate, no matter what its current system for administering estates is, may adopt this Act. States having the Uniform Probate Code (UPC) can adopt the universal succession amendments to the UPC promulgated by the ULC in 1982.

#### UNIFORM TRANSFERS TO MINORS ACT

The Uniform Transfers to Minors Act (UTTMA) supersedes the earlier Uniform Gifts to Minors Acts promulgated in 1956 and amended in 1965 and 1966. The UTTMA permits transfers of property to a minor in care of a designated custodian. The custodian remains in control of the property, holding it, investing it, and expending it for the minor's benefit, until the minor reaches the age of 21. Then, control is assumed by the former minor. A custodianship may be created by following simple forms, as provided in UTTMA. Any kind of property can be transferred under UTTMA. Transfers can be made as gifts or in satisfaction of certain obligations. UTTMA provides for jurisdiction over transfers and for validity of transfers made in other jurisdictions.

