

REPORT OF THE

**VIRGINIA COMMISSIONERS
TO THE NATIONAL CONFERENCE
OF COMMISSIONERS ON
UNIFORM STATE LAWS**

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



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TABLE OF CONTENTS

HISTORY OF THE CONFERENCE	1
OPERATION OF THE CONFERENCE.....	2
VALUE FOR VIRGINIA AND THE STATES.....	3
STATE APPROPRIATIONS	4
OTHER FINANCIAL CONTRIBUTORS	4
PROCESS FOR CREATION OF UNIFORM AND MODEL ACTS	5
THE IMPORTANCE OF VIRGINIA'S CONTRIBUTION.....	6
ACTIVITIES OF THE VIRGINIA COMMISSIONERS.....	6
ACTIVITIES OF THE 2008 VIRGINIA GENERAL ASSEMBLY	8
Uniform Law-Related Bills Introduced by the 2008 General Assembly Session.....	8
REPORT OF PROCEEDINGS OF THE 2008 ANNUAL CONFERENCE.....	9
2008 ADOPTIONS BY ANNUAL CONFERENCE.....	9
SUMMARIES	9
Amendments to Uniform Common Interest Ownership Act	9
Uniform Common Interest Owners Bill of Rights Act	10
Amendments to Uniform Interstate Family Support Act.....	10
Amendments to Uniform Probate Code	11
Amendments to Uniform Principal and Income Act	11
Uniform Unsworn Foreign Declarations Act	11
Revised Uniform Unincorporated Nonprofit Association Act.....	12
RECOMMENDATIONS FOR ENACTMENT	13
CURRENT DRAFTING PROJECTS.....	13
REQUEST FOR TOPICS APPROPRIATE FOR CONSIDERATION AS UNIFORM ACTS	18

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Conference of Commissioners on Uniform State Laws
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**Report of the
Virginia Commissioners to the
National Conference of Commissioners
on Uniform State Laws
to
The Governor and the General Assembly of Virginia
Richmond, Virginia**

January 1, 2008 - December 31, 2008

HISTORY OF THE CONFERENCE

In 1889, the New York Bar Association appointed a special committee on uniformity of laws. The following year the New York legislature authorized the appointment of commissioners

. . . to examine certain subjects of national importance that seem to show conflict among the laws of the several commonwealths, to ascertain the best means to effect an assimilation or uniformity of the laws of the states, and especially whether it would be advisable for the State of New York to invite the other states of the Union to send representatives to a convention to draft uniform laws to be submitted for approval and adoption by the several states.

In the same year, the American Bar Association passed a resolution recommending that each state provide for commissioners to confer with the commissioners of other states regarding legislation on certain issues. In August of 1892, the first National Conference of Commissioners on Uniform State Laws (Conference or NCCUSL) convened in Saratoga Springs, New York.

By 1912, every state was participating in the Conference. Since then, the Conference has steadily increased its contribution to state law and has attracted some of the most outstanding members of the legal profession. Prior to his more notable political prominence and service as president of the United States, Woodrow Wilson became a member in 1901. Supreme Court Justices Brandeis and Rutledge, the late Chief Justice Rehnquist, and current Justice Souter, and such legal scholars as Professors Wigmore, Williston, Pound and

Bogart have all served as members of the Conference. This distinguished body has guaranteed that the products of the Conference are of the highest quality and are enormously influential upon the process of the law.

The Conference, also known as the Uniform Law Commissioners (ULC), began more than 100 years ago because of the interests of state governments in improvement of the law and interstate relationships. Its purposes remain to serve state governments and improve state law.

OPERATION OF THE CONFERENCE

The ULC convenes as a body once a year. Throughout the year drafting committees, composed of commissioners, work over several weekends on drafts of legislation to be considered at the annual meeting. The work of the drafting committees is read, line-by-line, and thoroughly debated at the annual meeting. Each act must be considered over a number of years; most are read and debated by the Conference two or more times. Those acts deemed by the ULC to be ready for consideration in the state legislatures are put to a vote of the states. Each state caucuses and votes as a unit.

The governing body of the ULC, the Executive Committee, is composed of officers elected by vote of the commissioners, ex-officio members, and members who are appointed annually by the president of the ULC. Certain activities are conducted by standing committees. For example, the Committee on Scope and Program considers all new subject areas for possible uniform acts. The Legislative Committee superintends the relationships of the Conference to the state legislatures.

The ULC maintains relations with several sister organizations. Official liaison is maintained with the American Bar Association. Additionally, liaison is continually maintained with the American Law Institute, the Council of State Governments, and the National Conference of State Legislatures. Other associations are frequently contacted and advised of Conference activities as interests and activities necessitate.

At the national office in Chicago, a small staff provides administrative and clerical assistance to the ULC and the individual members, as well as advice and coordinating assistance in securing the passage of uniform acts. The ULC contracts with "reporters" for professional services to aid in drafting. Reporters are engaged at modest honoraria to work with drafting committees on specific acts. The Conference also employs professional independent contractors for work on part of its public information and educational

materials. The annual budget and audit report of the Conference are available on request.

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

VALUE FOR VIRGINIA AND THE STATES

The process of drafting a uniform act is lengthy and deliberate, yet cost-efficient. A committee is appointed from the membership of the ULC. The American Bar Association is invited to appoint an advisor to each drafting committee. The bylaws of the ULC require at least two years for drafting and two readings of the draft at annual meetings of the ULC. Through this unique system--the only one like it in American political life--comprehensive legislation receives painstaking and balanced, nonpartisan consideration.

The price tag for this process represents true value to the states. With 98 percent of the annual budget of the ULC coming from state government contributions, here is a look at some of the costs and benefits.

Uniform Law Commissioners donate their professional services, spending hundreds of hours on uniform state laws as a public service because of their commitment to good law. The cumulative value of this donated time in the development of uniform and model acts averages over \$10 million per year.

The average revision of an article of the Uniform Commercial Code takes four years, with three to five committee meetings per year. The original Uniform Probate Code took a full decade to develop and promulgate. Each of these comprehensive projects cost much more from the actual budget of the ULC, and represents much larger contributions--in terms of time--from the ULC membership.

Major committees of the ULC draw extensive advisory and observer groups into the drafting process. Meetings of the Uniform Commercial Code committees regularly draw advisors and observers in a ratio of two or three to one commissioner. These advisor and observer groups represent various

interests, provide outside expertise and facilitate dissemination of the act. It is impossible to place a dollar value on their input, which state funds do not pay.

It is also not possible to measure the worth of the intellectual participation by all who are involved. There is no process at either the state or federal level of the United States government today that compares to the uniform law process--intense, nonpartisan scrutiny of both policy and execution of the law.

STATE APPROPRIATIONS

The ULC is a state service organization that depends upon state appropriations for its continued operation. All states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands are asked to contribute a specific amount, based on population, for the maintenance of the ULC. In addition, each state delegation requests an amount to cover its commissioners' travel expenses for the Conference's annual meeting. The total requested contribution of all the states to the operation of the ULC was \$2,272,300 in fiscal year 2009. The smallest state contribution was \$21,800 and the largest was 144,200. Virginia's contribution for FY 2009 was \$51,500. The annual budget of the ULC for FY 2009 was \$3,069,119. Of this amount, \$566,095 goes directly to drafting uniform and model acts, and includes travel expenses for drafting committee meetings, printing and publication costs, and editing and personnel costs. The research process, which includes the work of study committees and the ULC Committee on Scope and Program, is \$117,437. In addition, \$733,591 is spent in assisting state legislatures with bills based on uniform and model acts. This amount includes salaries and travel expenses. About \$389,774 is spent on the annual meeting. Public education for uniform and model acts costs about \$248,512 and includes contractual services, materials costs and travel expenses. The remainder of the budget pays general administrative costs.

OTHER FINANCIAL CONTRIBUTORS

The Commission also receives limited funds from the American Bar Association and the American Law Institute. Grants from foundations and the federal government are occasionally sought for specific educational and drafting efforts. By seeking grants for specific projects, the Commission expands the value of every state dollar invested in its work.

The Uniform Commercial Code (UCC) is a joint venture between the ULC and the American Law Institute (ALI). The ALI holds Falk Foundation funds that are allocated to work on the UCC. The original Falk Foundation grant came in the late 1940s for the original development of the UCC. Proceeds from copyright licensing of UCC materials provide revenue to replenish the Falk Foundation corpus. At any time work on the UCC commences, a percentage of ULC and ALI costs are paid from the Falk Foundation income.

In addition, the Commission has recently established new royalty agreements with major legal publishers, which reprint the ULC's uniform and model acts in their publications.

The Conference will not take money from any source except on the understanding that its drafting work is autonomous. No source may dictate the contents of any act because of a financial contribution.

PROCESS FOR CREATION OF UNIFORM AND MODEL ACTS

The procedures for drafting an act are the result of long experience with the creation of legislation. The Scope and Program Committee, which consists solely of commissioners, considers new subject areas of state law for potential uniform or model acts. The Committee reviews suggestions for uniform or model acts from many sources, including organized bar groups, state governments and private persons. If a subject area cannot be adequately studied by Scope and Program Committee, it is likely to be given to a special study committee. Study committees report back to the Scope and Program Committee. The recommendations of the Scope and Program Committee go to the ULC Executive Committee, and to the entire ULC for approval.

Once a subject receives approval for drafting, a drafting committee is selected, and a budget is established for the committee work. A reporter is usually engaged, although a few committees work without professional assistance.

Advisors and participating observers are solicited to assist the drafting committee. The American Bar Association appoints official advisors for every committee. Other advisors may come from state government or organizations with interest and expertise in a subject, and from the ranks of recognized experts in a subject. Advisors and participating observers are invited to work with drafting committees and to contribute comments. They do not make final decisions with respect to the final contents of an act. Only the commissioners who compose the drafting committee may do this.

A committee meets according to the needs of the project. A short act may require one or two committee meetings. Major acts may require one meeting every month for a considerable period of time, several years, in some instances. A committee may produce a number of successive drafts as an act evolves.

At each annual meeting during its working life, the drafting committee must present its work to the whole body of the ULC. The most current draft is read and debated. This scrutiny continues from annual meeting to annual meeting until a draft satisfies the whole body of the commissioners. No act is promulgated without at least two years' consideration, meaning every act receives at least one interim reading at an annual meeting, and a final reading at a subsequent annual meeting. There is often more than one interim reading and a drafting process that exceeds two years in duration. An act becomes official by a majority vote of the states. As mentioned earlier, each state commission caucuses to represent its state's position and each state receives one vote. The vote by states completes the drafting work, and the act is ready for consideration by the state legislatures.

The cost of this process to the states is in travel expenses, paper and publication costs, and meeting costs. Nearly all the services are donated, thereby eliminating the single greatest cost factor. For the states, with their necessary cost consciousness, the system has extraordinary value.

THE IMPORTANCE OF VIRGINIA'S CONTRIBUTION

Virginia's participation, both in terms of appointing uniform law commissioners and contributing funds, is essential. Virginia benefits from the excellent body of law created for its consideration. The Conference, and all the states, benefit from having Virginia's direct contribution to the work of ULC.

ACTIVITIES OF THE VIRGINIA COMMISSIONERS

The Governor is authorized to appoint three members, each to serve a four-year term (§ 30-196, Code of Virginia). The three gubernatorial appointees are: H. Lane Kneedler of Charlottesville, Ellen F. Dyke of Vienna, and Thomas Edmonds of Richmond.

In addition to the Governor's appointments, the Constitution of the Conference authorizes the appointment of life members upon recommendation of the Executive Committee. Virginia's life members are Brockenbrough

Lamb, Jr., a member since 1953, and Carlyle C. Ring, Jr., a member since 1970 and president of the Conference from 1983 to 1985. Esson McKenzie Miller, Jr., director of the Division of Legislative Services since 1988, became a life member at the 2008 Annual Meeting.

The Constitution of the Conference also grants membership as an associate member to the principal administrative officer of the state agency "charged by law with the duty of drafting legislation, or his designee. Jessica D. French, senior attorney with the Division, was designated an associate member in July 1999.

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

Carlyle C. Ring, Jr. — Chairman, Committee on Uniform Commercial Code; Chairman, Enactment Committee to Revise Uniform Anatomical Gift Act; Member, Study Committee on Environmental Controls and Hazards Notice System; Member, Executive Subcommittee of the Permanent Editorial Board for Uniform Commercial Code; Member, Permanent Editorial Board for Uniform Commercial Code; Member, General Provisions; Member, Committee on Federal Relations; and Liaison Member, Uniform Law Foundation Trustees; Member, Study Committee on Regulation of Financial Institutions and Payment Systems.

Ellen F. Dyke — Member, Drafting Committee on a Partition of Tenancy-In-Common Real Property Act.

Thomas Edmonds — Member, Study Committee on the Regulation of Financial Institutions and Payment Systems and Member, Study Committee on Mental Health Advance Directives, Committee on Liaison with the American Bar Association.

H. Lane Kneedler — Secretary, Executive Committee; Member, Drafting Committee on Uniform Collateral Consequences of Conviction; Member, Standby Committee on Uniform Certificate of Title Act; and Member, Drafting Committee to Revise Model State Administrative Procedures Act.

Esson McKenzie Miller, Jr. — Chair, Drafting Committee on a Uniform Certificate of Title Act for Boats. Member, Standby Committee on Uniform Certificate of Title Act and Member, Legislative Committee.

Jessica D. French — Member, Drafting Committee on Collateral Consequences of Conviction and Member, Legislative Committee.

ACTIVITIES OF THE 2008 VIRGINIA GENERAL ASSEMBLY

Based on recommendations made by the Virginia Commissioners in Report Document No. 122, 2008, covering the period January 1, 2007, through December 31, 2007, and other initiatives, the following actions regarding uniform laws were taken by the 2008 Virginia General Assembly.

Uniform Law-Related Bills Introduced by the 2008 General Assembly Session

Amendment to Revised Uniform Anatomical Gift Act

House Bill 1299; Delegate Frederick; Specifies a procedure for resolving situations when, with regard to the measures necessary to ensure the medical suitability of an organ, there is a conflict between an advanced health care directive or similar declaration and the express or implied terms of an anatomical gift. The 2007 General Assembly repealed the Uniform Anatomical Gift Act and enacted the Revised Uniform Anatomical Gift Act.

Amendment to Revised Uniform Limited Partnership Act

House Bill 780; Delegate Kilgore; Reorganizes provisions of the Revised Uniform Limited Partnership Act regarding the winding up, cancellation, and reinstatement of limited partnerships. The revisions to the structure of the Act conform to the organization of the Virginia Stock and Nonstock Corporation Acts. Other provisions authorize the removal of the initial registered office and registered agent information in the certificate of limited partnership if a statement of change is on file with the Commission and make technical clarifications.

Uniform Prudent Management of Institution Funds Act

House Bill 951; Delegate Iaquinto; Replaces current provisions in the Virginia Code with this Uniform Act that was adopted by the ULC in 2006. The original Uniform Management of Institutional Funds Act was adopted by the ULC in 1972 and enacted in Virginia in 1973. The Act expands the scope of the prior law, applying to all charitable institutions holding institutional funds, including trusts without noncharitable beneficiaries. The Act also clarifies and expands the duties and obligations concerning the conduct of investment and expenditures of institutional funds. The Act also imposes express standards on any delegation of the management or investment of institutional funds. The Act also updates the standards for when a court may

order the release or modification of the purpose of or restrictions contained in a gift instrument through which a donor contributes to an institutional fund.

REPORT OF PROCEEDINGS OF THE 2008 ANNUAL CONFERENCE

The 2008 annual meeting of the Conference was held July 18 - July 25, in Big Sky, Montana. Commissioners Dyke, Edmonds, French, Kneedler, Lamb, Miller and Ring attended.

The following uniform acts or amendments to uniform acts were approved at the annual meeting:

- *Amendments to Uniform Common Interest Ownership Act*
- *Uniform Common Interest Owners Bill of Rights Act*
- *Amendments to Uniform Interstate Family Support Act*
- *Amendments to Uniform Probate Code*
- *Amendments to Uniform Principal and Income Act*
- *Uniform Unsworn Foreign Declarations Act*
- *Revised Uniform Unincorporated Nonprofit Association Act*

In addition to the approved acts listed above, the following uniform acts were considered by the Conference at its annual meeting:

- *Uniform Collateral Consequences of Conviction Act*
- *Uniform Statutory Trust Entity Act*
- *Revised Model State Administrative Procedures Act*
- *Uniform Collaborative Law Act*
- *Uniform Real Property Transfer on Death Act*
- *Uniform Record Owners of Business Act*

2008 ADOPTIONS BY ANNUAL CONFERENCE

SUMMARIES

Summaries of the acts adopted or amended by the Conference are as follows:

Amendments to Uniform Common Interest Ownership Act

The 2008 amendments to the Uniform Common Interest Ownership Act (UCIOA) update and revise the 1994 version of the act. The original 1982

version of UCIOA had previously been adopted in five jurisdictions, and the 1994 revised version in two. This act contains provisions for the formation, management, and termination of any common interest community, including condominiums, planned communities, and real estate cooperatives.

The 2008 UCIOA amendments seek to address critical aspects of association governance, with particular focus on the relationship between the association and its individual members, foreclosures, election and recall of officers, and treatment of records. Importantly, UCIOA gives greater flexibility to association governing boards with regard to enforcement of the declaration, bylaws, and rules of the association. The 2008 amendments also modernize UCIOA with respect to electronic commerce and practice.

Uniform Common Interest Owners Bill of Rights Act

In addition to amendments to UCIOA, a new Uniform Common Interest Owners Bill Of Rights Act (UCIOBORA) was also drafted that can be enacted by states as part of UCIOA or as a stand-alone act. The UCIOBORA is drawn from the provisions of UCIOA, and supplements existing state law with many of the most important updates and protections of the 2008 act.

Amendments to Uniform Interstate Family Support Act

In November 2007, the United States signed the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. This Convention contains numerous provisions that establish uniform procedures for the processing of international child support cases. The 2008 UIFSA amendments, approved by the Uniform Law Commission, serve as the implementing language for the Convention within U.S. States and Territories.

In order for the United States to fully accede to the Convention it was necessary to modify UIFSA by incorporating provisions of the Convention that impact existing state law. Section 7 of the 2008 UIFSA provides important guidelines and procedures for the registration, recognition, enforcement and modification of foreign support orders from countries that are parties to the Convention. Enactment of the amendments to UIFSA will improve the enforcement of American child support orders abroad and will help ensure that children residing in the United States will receive the financial support due from parents, wherever the parents reside.

Federal implementing legislation submitted to Congress will require that the 2008 version of UIFSA be enacted in every jurisdiction by 2010, as a condition for continued receipt of federal funds supporting state child support

programs. Failure to enact these amendments by 2010 will result in the loss of this important federal funding.

Amendments to Uniform Probate Code

The Uniform Probate Code (UPC), which is fully adopted in 18 states (and partially adopted as various stand-alone acts in many others) provides an integrated statutory system for all sorts of probate and estate law matters. The UPC, along with its constituent stand-alone acts, has been frequently updated since its inception in 1969. The 2008 amendments to the UPC are designed to address four key issues. First, several sections having to do with cost-of-living adjustments have been updated for the first time since 1990. Second, definitions have been added to make the UPC consistent with the use of electronic signatures and records, and to allow for the option of notarized wills (as an alternative to attestation by two witnesses). Third, Article II of the UPC dealing with intestate succession has been reorganized and expanded to extend intestate inheritance rights to a broader group of potential heirs based on the existence of a “parent-child relationship” as defined therein. This last change significantly modernizes the UPC’s treatment of non-marital children (and children of new forms of marriage), adoptive children, and children of assisted reproduction. Finally, the process and standards under which a will can be reformed or corrected are clarified so as to be consistent with the Restatement (Third) of Property: Wills and other Transfers, and the Uniform Trust Code.

Amendments to Uniform Principal and Income Act

The Uniform Law Commission, in July 2008, approved amendments to the Uniform Principal and Income Act that update the act to reflect current policy of the Internal Revenue Service (IRS) and clarify technical language regarding withholdings. Section 409 of the Act has been changed to satisfy a 2006 IRS ruling regarding marital deductions. The new language comports with the ruling and the underlying tax policies of the IRS. Further, the 2008 amendments include a change to Section 505, which addresses the amount of money which must be withheld from a distribution to pay the tax on the undistributed income. The amendment clarifies the section and removes any ambiguity that could lead to litigation.

Uniform Unsworn Foreign Declarations Act

The Uniform Unsworn Foreign Declarations Act, promulgated by the Uniform Law Commission in 2008, affirms the validity of unsworn foreign declarations made by a declarant who is physically outside the boundaries of the United States when making the declaration and who may not have access

to a notary. Under the Act, unsworn declarations cannot be used for depositions, oaths of office, oaths related to self-proved wills, declarations recorded under certain real estate statutes, and oaths required to be given before specified officials other than a notary. Use of an unsworn declaration, like a sworn declaration, would be subject to penalties for perjury, and the Act provides a model form that unsworn declarations must substantially follow.

Revised Uniform Unincorporated Nonprofit Association Act

The Uniform Unincorporated Nonprofit Association Act (originally promulgated in 1996), addressed a key problem in common law: that an unincorporated association was not a separate entity, but rather was an aggregate of individuals with many characteristics of a business partnership. The 1996 Uniform Act reformed the common law in three basic areas: authority to acquire, hold, and transfer property, especially real property; authority to sue and be sued as an entity; and contract and tort liability of officers and members of the association.

The Revised Act (RUUNAA) improves upon its predecessor by providing additional guidance, incorporating a number of modern practices, and by eliminating potential conflicts with other bodies of law. The revised act extends the nature of unincorporated nonprofit associations as distinct entities by allowing qualified associations to exist in perpetuity where necessary or convenient to carry out its purposes.

The RUUNAA distinguishes itself from its predecessor in that it provides greater guidance with respect to a number of member and manager issues (meetings, duties, resignation of members and managers, quorum and notice rules, etc.). Also, the RUUNAA addresses a number of financial issues such as prohibited distributions, compensation and other payments, reimbursement and indemnification, and advancement of expenses, as well as dissolution, winding up, and termination of an association.

In short, the RUUNAA modernizes the 1996 Uniform Act by addressing popular internal and external issues that would face an unincorporated nonprofit association today. Significantly, the project was executed in close coordination with similar efforts by the Uniform Law Conferences of Canada and Mexico, so widespread adoption of the Revised Act will have the added benefit of functional cross-border harmonization.

RECOMMENDATIONS FOR ENACTMENT

The following uniform acts, which have been approved by the Conference, make significant contributions to important subjects. The Virginia commissioners recommend these acts for consideration and adoption by the 2009 General Assembly:

- *Uniform Power of Attorney Act*
- *Uniform Interstate Depositions and Discovery Act*
- *Amendments to Uniform Principal and Income Act*

CURRENT DRAFTING PROJECTS

There are currently 20 ULC drafting committees working on new and revised uniform acts. In addition, 13 study committees are considering subjects for possible future drafting.

Current Drafting Committees

Drafting Committee on a Business Organizations Act. The purpose of this committee is to draft common provisions of business organization law such as definitions; the mechanics of filings; names of entities, registered agents and registered offices; qualification of foreign entities; and administrative powers of the Secretary of State; and incorporate Model Entity Transactions Act provisions on merger, interest exchanges, conversions, domestications and divisions.

Drafting Committee on a Uniform Act on the Collateral Consequences of Conviction. This committee is drafting a statute addressing the various penalties and disqualifications that individuals face incidental to criminal sentencing, including disqualification from voting, prohibitions from running for office, exclusion from certain types of employment, etc. The act is intended to be narrow in scope, applying only to the procedures surrounding collateral sanctions, not defining or limiting what those sanctions are.

Drafting Committee on a Collaborative Law Act. This committee will draft an act on collaborative law, a new kind of alternative dispute resolution framework used in many states today, particularly in a family law context, i.e., divorce, custody, and support proceedings. The core idea is that lawyers (and parties) to a dispute agree in advance that the lawyers will withdraw if the dispute goes to trial. The committee will also consider

whether the act should be limited to family law cases or expanded to other areas of the law such as estate planning.

Drafting Committee on a Presidential Electors Act. This committee will draft an act providing a state statutory remedy in the event a state presidential elector fails to vote in accordance with the voters of his or her state.

Drafting Committee on a Genetic Information in Employment and Insurance Act. This committee will draft uniform or model legislation on the misuse of genetic information in the context of employment and health insurance.

Drafting Committee to Revise the Model State Administrative Procedures Act. This committee is revising the 1980 Model State Administrative Procedures Act, which provided procedures for promulgating administrative regulations and for adjudicating disputes before administrative bodies. A revision is necessary to update the act to recognize electronic communications and other state procedural innovations since the act was originally promulgated.

Drafting Committee on a Relocation of Children Act. This committee will draft an act on the relocation of children from one jurisdiction to another in the context of custody disputes. Relocation involves a parent who wants to move with a child over the objections of the other parent; it is one of the fastest-growing kinds of custody litigation in the country.

Drafting Committee on a Uniform Statutory Trust Entity Act. The business trust format — often used in mutual funds, ERISA pension funds, and various types of regulatory compliance trusts — is increasingly used as an alternative to other business entities such as a corporation and limited partnership. Business trusts are special purpose vehicles, the closest equivalent being limited partnerships. Although there are few business trusts compared to other types of business forms, trillions of dollars of assets are invested in this business format. This committee is drafting an act that will apply to business trusts and other analogous statutory trusts. It will not apply to the kind of trusts used in estate planning.

Drafting Committee on a Real Property Transfer on Death Act. This committee will draft an act that will permit real property to be transferred outside of probate upon death by beneficiary designation, similar to current beneficiary designations now used on securities accounts. At least eight states now permit this kind of real estate transfer on death.

Drafting Committee on a Partition of Tenancy in Common Real Property Act. The purpose of this committee is to draft a uniform act that will address the issue of tenancy-in-common land ownership. Tenancy in common is a type of joint ownership without right of survivorship. When there is no right of survivorship, the death of a tenant in common can trigger an action to partition the land to satisfy the deceased tenant's heirs. In a partition, the land is sold to satisfy tenant in common interests, often in a sale that does not meet market value. This committee will draft a new law to protect vulnerable landowners by providing a buy-out option; balancing factors for judges on partition of real property; sale price minimums if dispossession occurs; and a waiting period of up to three years for strangers to title.

Drafting Committee on Electronic Recordation of Custodial Interrogations. This committee will draft an act addressing the issue of the use of audio and/or video electronic devices to record law-enforcement officers' interviews of criminal suspects who are in custody.

Drafting Committee on Insurable Interests Relating to Trusts Act. This committee will draft an act to address concerns regarding the purchase of life insurance trusts by trustees as it relates to insurable interest law. Life insurance trusts are a standard estate planning tool because proceeds of an irrevocable life insurance trust are not subject to estate taxes. Recent case law has raised the possible need for uniform law on insurable interests. The scope of the project is narrow and might be drafted within the Uniform Trust Code or as a free-standing act.

Drafting Committee to Revise the Uniform Law on Notarial Acts. The purpose of this drafting committee is to revise the 1982 Uniform Law on Notarial Acts. The charge is limited to drafting revisions with respect to notary responsibilities, electronic recording, interstate recognition, and remedies.

Drafting Committee on a Record Owners of Business Act. This committee will draft an act to conform uniform entity laws, including the Uniform Partnership Act (1997), Uniform Limited Partnership Act (2001), Uniform Limited Liability Act (2006) and the Uniform Unincorporated Nonprofit Association Act (1996), to address the availability of information regarding the owners of entities established under state law. The act would help address some national security concerns relating to companies operating for the purpose of organized crime, terrorist financing, securities fraud, tax evasion and other misconduct, while at the same time balancing important privacy concerns.

Drafting Committee on the Regulation of Charities. This committee will draft an act to address the state regulation of charities. The committee will focus on state attorneys general authority with regard to the protection of charitable assets, notice requirements, remedies and principles to guide attorneys general in interstate and multi-state cases.

Joint Drafting Committee for Implementation of the UN Convention on Independent Guarantees and Stand-by Letters of Credit. This committee will work with the American Law Institute, the Uniform Law Conference of Canada and the Mexican Center for Uniform Laws to draft language to implement the UN Convention on Independent Guarantees and Stand-by Letters of Credit, and to assist Canada in developing letter-of-credit law consistent with UCC Article 5. The Convention is designed to facilitate the use of independent guarantees and stand-by letters of credit, in particular where only one or the other of these instruments may be traditionally in use.

Drafting Committee on a Certificate of Title Act for Boats. This committee will draft an act establishing a certificate of title system for boats. Many states do not have certificate of title laws governing watercraft, and those that do have considerable differences in terms. The committee will coordinate its work with the United States Coast Guard and developments concerning the Coast Guard's vessel identification and documentation systems.

Joint Review Committee for UCC Article 9. This joint ALI/ULC committee will draft specific revisions of UCC Article 9 to address specific issues that a study committee has already identified as needing statutory revision. The issues that the committee will address are those as to which ambiguities have been discovered in existing statutory language, where there have been substantial problems in practice in applying current statutory provisions, or as to which there have been significant judicial decisions or non-uniform amendments that suggest the need to consider statutory revisions.

Committee to Implement the UN E-Commerce Convention. The E-Commerce Convention impacts the Uniform Electronic Transactions Act and the federal E-Sign legislation. This committee will recommend the most appropriate methods for implementing the Convention, including whether any federal or uniform state legislation is necessary, and then will work with the United States Departments of State and Commerce, and other interested entities, in preparing any necessary uniform state or federal legislation and in seeking to obtain United States Senate advice and consent to the Convention.

Drafting Committee on the Hague Convention on Choice of Court Agreements. This drafting committee, at the request of the U.S. State Department, will draft uniform state legislation and appropriate declarations and understandings to assist in the implementation and ratification of the Hague Convention on Choice of Court Agreements.

Study Committees

Study Committee on the 1996 Hague Convention on the Protection of Children
Study Committee on Regulation of Financial Institutions and Payment Systems
Study Committee on Administrative Procedures for Interstate Compact Entities
Study Committee on Health Care Information Interoperability
Study Committee to Revise Model Drug Dependence Treatment and
Rehabilitation Act
Study Committee to Revise Uniform Federal Lien Registration Act
Study Committee on Revisions of the Uniform Division of Income for Tax
Purposes Act
Study Committee on a Military Services and Overseas Civilian Absentee Voters
Act
Study Committee on Mental Health Advance Directives
Study Committee on Model Tribal Legislation on Collateralization of Interests in
Real Property
Study Committee on Model Tribal Legislation Concerning Child Custody and
Domestic Violence
Study Committee on Authentication of Online State Legal Materials
Study Committee on Environmental Controls and Hazards Notice Systems

REQUEST FOR TOPICS APPROPRIATE FOR CONSIDERATION AS UNIFORM ACTS

The Virginia Commissioners welcome suggestions from the Governor, the General Assembly, the Attorney General, the organized bar, state governmental entities, private interest groups and private citizens on ideas for new uniform or model acts. Appropriate topics are those where (i) uniformity in the law among the states will produce significant benefits to the public and (ii) it is anticipated that a majority of the states would adopt such an act.

Respectfully submitted,

Carlyle C. Ring, Jr., Chairman
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