

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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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, 2012 - December 31, 2012

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. Former Supreme Court Justices Brandeis, Souter, and Rutledge, and former Chief Justice Rehnquist, 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 Commission (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, which provides advisors to all ULC drafting committees and many ULC study committees. Additionally, liaison is continually maintained with the American Law Institute, the Council of State Governments, the National Conference of State Legislatures, the Conference of Chief Justices, and the National Center for State Courts. Other organizations 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 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 pursues 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. 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.

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 between \$1 and \$2 million per project.

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 than 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 is \$2,538,600 in fiscal year 2013. The smallest state contribution is \$26,400 and the largest is \$151,500. Virginia's dues for FY 2013 are \$ 54,000. The annual budget of the ULC for FY 2013 is \$2,980,833. Of this amount, \$464,904 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 \$149,525. In addition, \$628,468.98 is spent in assisting state legislatures with bills based on uniform and model acts. This amount includes salaries and travel expenses. About \$381,280 is spent on the annual meeting. Public education for uniform and model acts costs about \$226,759 and includes contractual services, materials costs and travel expenses. The remainder of the budget pays general administrative costs, governance costs, and occupancy expenses.

OTHER FINANCIAL CONTRIBUTORS

Grants from foundations and the federal government are occasionally sought for specific educational and drafting efforts.

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 established 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 completely autonomous.

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.

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. Participating observers 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 many more meetings 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 (one vote to each state). 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.

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). Thomas Edmonds of Richmond is a gubernatorial appointee.

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 Ellen F. Dyke, of Vienna, H. Lane Kneedler, of Charlottesville, Brockenbrough Lamb, Jr., of Richmond, Esson McKenzie Miller, Jr., of Richmond, and Carlyle C. Ring, Jr., of Alexandria.

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. Robert L. Tavenner, who became Director of the Division of Legislative Services in July 2011, became a member at that time. Jessica D. French, senior attorney with the Division, has been designated an associate member.

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

Carlyle C. Ring, Jr. — Chair, Committee on Uniform Commercial Code; Chair, Executive Subcommittee of the Permanent Editorial Board for Uniform Commercial Code; Member, Permanent Editorial Board for Uniform Commercial Code; Member, Committee on Federalism and State Law; Liaison Member, Uniform Law Foundation Trustees; and Member, Drafting Committee on Residential Real Estate Mortgage Foreclosure Process and Protections.

Ellen F. Dyke — Member, Drafting Committee on Manufactured Housing Act.

Thomas Edmonds — Member, Committee on Liaison with the American Bar Association; and Member, Study Committee on Appointment and Powers of Real Estate Receivers.

H. Lane Kneedler — Chair, Committee to Review the ULC Drafting Process; Member, Legislative Council (Atlantic Region); Member, Standby Committee on State Administrative Procedure Act; and Member, Drafting Committee on Prevention of and Remedies for Human Trafficking.

Esson McKenzie Miller, Jr. — Chair, Drafting Committee on a Uniform Certificate of Title Act for Vessels; Member, Standby Committee on Uniform Certificate of Title for Vessels Act; Member, Committee of Legislative Attorneys, and Member, Drafting Committee on Prevention of and Remedies for Human Trafficking.

Jessica D. French — Vice-chair, Committee of Legislative Attorneys.

ACTIVITIES OF THE 2012 VIRGINIA GENERAL ASSEMBLY

Based on recommendations made by the Virginia Commissioners in Report Document No. 137, 2012, covering the period January 1, 2011, through December 31, 2011, and other initiatives, the following actions regarding uniform laws were taken by the 2012 Virginia General Assembly.

**Uniform Law-Related Bills Passed by the
2012 General Assembly Session and Signed by the Governor**

Amendments to Article 9 UCC (Secured Transactions)

SB 51; Senator Watkins. Uniform Commercial Code; secured transactions. Incorporates amendments to the secured transactions title of the Uniform Commercial Code that have been adopted by the National Conference of Commissioners on Uniform State Laws. The amended sections (i) update certain definitions; (ii) incorporate safe harbor provisions for electronic chattel paper under the Uniform Electronic Actions Act; (iii) amend the laws of perfection and priority to increase the likelihood that a security interest will be perfected under certain conditions; (iv) set out the sufficiency requirements for a financing statement to provide the name of the debtor; (v) delete prescribed forms for financing statements; and (vi) provide technical amendments and transition provisions. The measure takes effect on July 1, 2013.

Uniform Military and Overseas Voters Act

SB 565; Senator Martin. Elections; military and overseas voters. Adopts the Uniform Military and Overseas Voters Act, with modifications, to promote uniformity of treatment and improved administration of election laws for military and overseas voters.

Uniform Environmental Covenants Act

SB 123; Senator Watkins. Environmental covenants. Limits the use of covenants under the Uniform Environmental Covenants Act to those situations in which all parties agree to use such a covenant.

**REPORT OF PROCEEDINGS OF THE 2012
ANNUAL MEETING**

The 2012 annual meeting of the Conference was held July 13 - July 19, in Nashville, Tennessee. Commissioners Dyke, Edmonds, French, Kneedler, Miller, Ring, and Tavenner attended.

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

- *Uniform Deployed Parents Custody and Visitation Act*
- *Uniform Premarital and Marital Agreements Act*

- *Uniform Asset Freezing Orders Act*
- *Uniform Manufactured Housing Act*
- *Uniform Choice of Court Agreements Convention Implementation Act*

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

- *Prevention of and Remedies for Human Trafficking Act*
- *Powers of Appointment Act*
- *Act to Implement the Hague Convention on the Protection of Children*

2012 ADOPTIONS BY CONFERENCE

SUMMARIES

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

Uniform Asset Freezing Orders Act

The Uniform Asset Freezing Orders Act (UAFOA) creates a uniform process for the issuance of asset freezing orders, which are *in personam* orders freezing the assets of a defendant, and imposing collateral restraint on nonparties such as the defendant's bank, in order to preserve assets from dissipation, pending judgment. An asset freezing order is different from other types of pre-judgment orders such as a writ of attachment or a writ of garnishment (*in rem* orders) because an asset freezing order attaches to the defendant and not the property. If the defendant fails to comply with the order, the remedy is that the defendant may be held in contempt of court. The UAFOA provides state legislatures with a uniform process for the issuance of asset freezing orders. The Act also contains a mechanism for recognition and enforcement of asset freezing orders issued by other states and from foreign countries.

Uniform Deployed Parents Custody and Visitation Act

The increased deployment of service members has raised difficult child custody issues that profoundly affect both children's welfare and service members' ability to serve their country efficiently. The Uniform Deployed

Parents Custody and Visitation Act (UDPCVA) standardizes and simplifies the rules covering custody and visitation issues for deployed parents. The goal of the UDPCVA is to facilitate expeditious and fair disposition of cases involving the custody rights of a member of the military. One of the key points of the new Act provides that the mere absence of a military parent from a state will not be used to deprive that state of custody jurisdiction. For most cases, a move is a purely voluntarily thing. For service members, however, a move is not voluntary but is made under a military order. Such an involuntary move should not lead to the loss of jurisdiction by a state most familiar and involved with the child's best interests. The UDPCVA ultimately promotes a just balance of interests – protecting the rights of the service member, the other parent, and, above all, the best interests of the children involved.

Uniform Manufactured Housing Act

The Uniform Manufactured Housing Act (UMHA) gives owners the option to classify manufactured homes as either real property or personal property. The Act's primary focus is to enable a purchaser to elect to treat his or her manufactured home (also commonly called mobile homes) as real property. Under the UMHA, manufactured homes are personal property until the owner follows a simple procedure to reclassify the home as real property: (1) locate the home on a particular parcel of land, and (2) file a certificate of location with the land records office of the jurisdiction where the home is located. To ensure consumers are fully informed, the UMHA requires dealers of manufactured homes to inform the buyer of the option to reclassify the home as real property at the time of sale. The UMHA specifies that even when a manufactured home is located on land and reclassified as real property, title to the home remains separate from title to the land. This ensures that lenders who provide financing for either the land or the home will have the right to foreclose on the appropriate collateral in the event of default. The Act also states that reclassification of a home as real property does not affect manufacturer's warranties, does not affect landlord and tenant rights under a lease if the home is located on leased property, and does not subject the property to the law of fixtures. The Act is intended to modernize the law in this area, increase the supply of affordable housing by making manufactured home financing more available and affordable, and provide owners of manufactured homes with many of the same legal protections as owners of site-built homes.

Uniform Premarital and Marital Agreements Act

The Uniform Premarital and Marital Agreements Act (UPMAA) brings clarity and consistency across a range of agreements between spouses and those who are about to become spouses.

A number of states currently treat premarital agreements and marital agreements under different legal standards, with higher burdens on those who wish to enforce marital agreements. The UPMAA, however, treats premarital agreements and marital agreements under the same set of principles and requirements. The Act harmonizes the standards in existing uniform acts governing premarital and marital agreements (including the Uniform Premarital Agreement Act, Uniform Marital Property Act, Uniform Probate Code, and Model Marriage and Divorce Act). The Act provides that a premarital or marital agreement is unenforceable if a party establishes that: the party's consent was involuntary or the result of duress; the party did not have access to independent legal representation; the party did not receive a conspicuous notice of rights that may be modified or waived by the agreement; or that the party did not receive adequate financial disclosures. The Act also provides that a court may refuse to enforce a term of a premarital or marital agreement that it finds to be unconscionable.

Uniform Choice of Court Agreements Convention Implementation Act

The Uniform Choice of Court Agreements Convention Implementation Act will assist in the implementation and ratification of the Hague Convention on Choice of Court Agreements, and is meant to harmonize with federal implementing legislation.

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 2013 General Assembly:

Real Property Transfer on Death Act. Allows an owner of real property to pass the property simply and directly to a beneficiary on the owner's death without probate. The property passes by means of a recorded transfer on a death (TOD) deed. Senate Joint Resolution 349 (patroned by Senator Emmet Hanger during the 2011 Virginia General Assembly Session) requested the Virginia Bar Association to study the merits of legislation

authorizing transfer on death deeds. Although the resolution was left in the House Rules Committee, the Virginia Bar Association studied the issue.

Uniform Foreign-Country Money Judgments Recognition Act.

This act is a 2005 revision of the Uniform Foreign-Country Money Judgments Recognition Act of 1962 which Virginia adopted in 1990 (§ 8.01-465.6 et seq.) The original act was proposed to bring uniformity to the method in which the individual states recognize foreign country judgments and that this uniformity would allay reciprocity concerns of foreign nations and therefore make it more likely that judgments of the states would be recognized in other countries. The 2005 revision seeks to clarify the provisions of the 1962 Act. The most significant changes are the establishment of a burden of proof and a statute of limitations.

Uniform Commercial Code; Funds Transfers. Amends Article 4A of the Uniform Commercial Code to ensure that 4A continues to apply to remittance transfers that are not electronic fund transfers. Under current law, Article 4A of the Uniform Commercial Code, which is Title 4A in Virginia, applies to remittance transfers that are not electronic funds transfers under the federal Electronic Fund Transfer Act (EFTA). The Dodd-Frank Wall Street Reform and Consumer Protection Act amended EFTA to provide that EFTA will govern remittance transfers whether or not they are electronic, which means that when its provisions go into effect a fund transfer initiated by a remittance transfer would be outside of the coverage of 4A, even if the transfer is not an electronic fund transfer.

Uniform Certificate of Title for Vessels Act. This Act would repeal Virginia's existing watercraft titling law and enact in its place the Uniform Certificate of Title for Vessels Act as adopted in 2011 by the ULC. The owner of every watercraft of a particular size and type would be required to apply for and obtain a certificate of title, lowering the minimum boat length for which a title is required from 18 feet to 16 feet for boats owned or purchased after July 1, 2014. The bill would also detail the methods of creation or cancellation of certificates by the Department of Game and Inland Fisheries and describe the contents and effects of a certificate, including the availability of a title brand, a permanent designation indicating that a watercraft's hull has been damaged. Some of the principles of the Uniform Commercial Code would apply to the realm of watercraft by defining the rights of secured parties and purchasers other than secured parties and providing the method for perfecting a security interest. The bill would also establish the rules for transferring ownership of a watercraft by a transfer statement or by operation of law, set out the means of acquiring title to an abandoned watercraft, and state the duties of the Department of Game and Inland Fisheries.

State of the Law

Currently, all states and territories have a certificate of title law for motor vehicles. These laws vary only slightly with respect to which motor vehicles are covered and almost all of the laws are based on where the vehicle is principally garaged. As a result, there is no significant overlap or duplication of coverage.

In contrast, only two-thirds of the states and territories have a certificate of title law for boats and other vessels. Moreover, in two discrete ways these statutes vary widely in scope. First, they do not all cover the same types of vessels, each making its own distinctions based on size and propulsion. Second, the statutes vary in whether they are based on where the vessel is principally used, where it is principally moored, or where the owner resides. Consequently, significant gaps and some duplication in coverage exist. The gaps allow for extensive fraud: title to a stolen vessel can be washed by moving the vessel to a new jurisdiction that either has no titling law or has a law that does not cover the vessel at issue.

Several other problems plague the existing titling laws for vessels. First, none was written after the revision of Article 9 of the Uniform Commercial Code, which all states have since enacted, and few of the laws seem to have been written without much attention to the UCC at all. Accordingly, it is often difficult to harmonize a state's titling law with its laws governing sales of vessels and security interests in vessels, and difficult interpretive problems arise.

Second, none of the existing laws has been approved by the U.S. Coast Guard. If such approval were given, security interests perfected under that law would be accorded the status of a preferred ship mortgage under federal law. That in turn would likely facilitate vessel financing.

Third, very few state title laws for vessels provide for the branding of the title of a damaged or salvaged vessel. This means that buyers may unwittingly purchase a vessel that has hidden structural damage and is therefore unseaworthy and unsafe. This is a particular problem after a hurricane or other natural disaster in which many recreational boats are damaged. Owners and insurers often sell the damaged boats for salvage to buyers who make cosmetic repairs and then resell the boats without disclosure of the casualty.

The Uniform Certificate of Title for Vessels Act addresses all of these problems.

In general, the act covers all vessels of at least 16 feet in length and all vessels propelled by an engine of at least 10 horsepower. Exceptions exist for seaplanes, amphibious vehicles for which a certificate of title is issued pursuant to a motor vehicle titling act, watercraft that operate only on a permanently fixed, manufactured course, certain houseboats, lifeboats used on another vessel, and watercraft owned by the United States, a state, or a foreign government.

The act applies if the vessel is used principally on the waters of the state. An owner must, within 20 days of becoming an owner or within 20 days of the date the vessel becomes used principally on the waters of the state, apply for a certificate of title. However, no application is required for a federally documented vessel, a foreign documented vessel, a barge, a vessel under construction, or a vessel owned by a dealer.

Like a motor vehicle title, an application must include information about the owner or owners, the vessel, and any secured parties. The application must be accompanied by documentary evidence showing the applicant to be an owner of the vessel. Most of the information in the application will then be put on the certificate, although the owner's social security number or taxpayer identification number will not appear on the certificate. The titling office will maintain its records so that searches about vessels can be conducted by the vessel's hull identification number, by the vessel number, or by the owner's name.

The act includes a novel branding requirement. If the integrity of a vessel's hull has been compromised by a casualty event, the owner or insurer must, prior to selling the vessel, either note this on the certificate or apply for a new certificate that indicates that the vessel is "hull damaged." Failure to comply with this rule renders the offender liable for a civil or administrative penalty.

Under the act, a certificate is prima facie – but not conclusive – evidence of the facts appearing on it. Similarly, the act provides that a transferor who complies with the act's rules on transferring title is not liable as owner of the vessel for an event occurring after the transfer, regardless of whether the transferee applies for a new certificate of title. Collectively, these rules prevent courts from ignoring real transactions and treating the certificate itself as the only document relevant to actual ownership.

The act includes rules on security interests in vessels, including provisions on choice of law, when and how to perfect through notation on the title certificate, when and how a security interest may be perfected in another manner, how to terminate perfection, and the effect of minor errors in the

application or in the certificate. The act also includes rules on the priority of security interests in a vessel. All of these rules are consistent with Article 9 of the Uniform Commercial Code.

CURRENT DRAFTING PROJECTS

There are currently 10 ULC drafting committees working on new and revised uniform acts. In addition, 12 study committees are considering subjects for possible future drafting.

Current Drafting Committees

Drafting Committee on Implementation of Hague Convention on Protection of Children. This committee will draft uniform state legislation that will implement the recognition and enforcement provisions of the Hague Convention on the Protection of Children. The committee had its first in-person meeting in the fall of 2011 and will present an initial draft for consideration at the 2012 Annual Meeting.

Drafting Committee on a Powers of Appointment Act. This committee will draft an act on powers of appointment. This project was recommended by the Joint Editorial Board on Uniform Trust and Estate Acts. The JEB noted that, as the use of long-term trusts increases, there has been a significant increase in the use of powers of appointment, but that there is a dearth of statutory and case law on powers of appointment. The provisions of the Restatement (Third) of Property on powers of appointment, which were approved by the ALI in 2006, provide a useful basis for the committee's work. The committee had its first in-person meeting in the fall of 2011 and is expected to present a draft for initial consideration at the 2012 Annual Meeting.

Drafting Committee on an Act on the Prevention of and Remedies for Human Trafficking. This committee will draft legislation concerning the prevention of and remedies for human trafficking. The scope of the project is specifically focused on (a) human trafficking for sexual purposes, in which a sex act is induced by force, fraud or coercion, or in which the person induced to perform a sex act has not attained the age of majority, and (b) human trafficking in which force, fraud or coercion is used to obtain the labor or services of an individual under circumstances that amount to involuntary servitude. The committee had its first in-person meeting in the fall of 2011, will present a draft act for a first reading in July 2012, and expects to present an act for final approval in July 2013.

Drafting Committee on a Revision of the Uniform Residential Landlord and Tenant Act. This committee will prepare revisions of the Uniform Residential Landlord and Tenant Act (1972). The 1972 Act has been adopted in 21 states and has influenced statutory developments in many other states. Since 1972, however, there have been many new statutory and common law developments that affect residential landlord and tenant law, and the committee will seek to codify best current practices in a revised act. This project was recommended by the Joint Editorial Board on Uniform Real Property Acts. This committee is expected to present an initial draft for consideration at the 2013 Annual Meeting.

Drafting Committee on a Model Act on Appointment and Powers of Real Estate Receivers. The Committee will draft a model act that authorizes the appointment of real estate receivers and sets forth the powers of real estate receivers. The act may also provide powers for a receiver to act with respect to personal property that is ancillary to real estate, but the act will not authorize the appointment of receivers with respect to owner-occupied residences.

Drafting Committee on Series of Unincorporated Business Entities. The Committee will draft series provisions that can be added to some or all of the uniform unincorporated business organization acts other than the Uniform Statutory Trust Entity Act, and the committee is also authorized to draft revisions to the series provisions in USTEPA if it believes such revisions are necessary.

Drafting Committee on Amendments to the Uniform Fraudulent Transfer Act. The Committee will prepare amendments to the Uniform Fraudulent Transfer Act that address: (a) choice of law for fraudulent transfers, (b) presumptions and burdens of proof for fraudulent transfers, (c) who receives “reasonably equivalent value” under Section 8(a), (d) asset freezing orders, and (e) the consistency of the UFTA with ULC unincorporated business organization acts. The drafting committee is also authorized to draft, for approval by the Executive Committee, revisions to the comments to other provisions of the UFTA.

Drafting Committee on Fiduciary Access to Digital Assets. The Committee will draft a free-standing act and/or amendments to ULC acts, such as the Uniform Probate Code, the Uniform Trust Code, the Uniform Guardianship and Protective Proceedings Act, and the Uniform Power of Attorney Act, that will vest fiduciaries with at least the authority to manage and distribute digital assets, copy or delete digital assets, and access digital assets.

Joint Drafting Committee with the Uniform Law Conference of Canada on Inter-jurisdictional Recognition of Advance Planning Documents. The Joint Committee will draft principles that will guide the drafting of uniform legislation for enactment in the United States and in Canada that provides for cross-border recognition of documents such as powers of attorney for both property and health care, health care instructions, and other documents (such as instructions concerning living arrangements) as appropriate. The ULC members of the Joint Committee also will draft uniform U.S. legislation on these matters. This project will not develop principles or statutory provisions concerning the recognition of provisions for trusts or guardianships.

Drafting Committee on a Residential Real Estate Mortgage Foreclosure Process and Protections Act. This Committee will draft an act that applies only to residential mortgages and that will be drafted as an overlay to, rather than a replacement of, existing state legislation. The drafting committee will consider a specific list of issues that were recommended for consideration in the final report of the study committee, and the drafting committee is asked to return to the Scope and Program Committee for approval if it wishes to address additional issues, or if it believes that revisions to UCC Articles 3 or 9 are necessary. The Committee will present a draft for initial consideration at the July 2013 Annual Meeting.

Study Committees

- Study Committee on Model Tribal Legislation on Probate Transfer of Interests in Real Property
- Study Committee on an Act to Implement the Consular Notification Requirements of Article 36 of the Vienna Convention on Consular Relations
- Study Committee on an Eyewitness Identification Procedures Act
- Study Committee on Amending the Uniform Athlete Agents Act
- Study Committee on Criminal Records Accuracy and Access
- Study Committee on Family Law Arbitration
- Study Committee on a Model Veterans Court Act
- Study Committee on Portability and Recognition of Professional and Occupational License of Military Spouses
- Study Committee on Recognition and Enforcement of Canadian Domestic-Violence Protection Orders
- Study Committee on Trust Decanting
- Study Committee on Trust Protector Act
- Study Committee on Wage Garnishment

**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
Ellen F. Dyke
Thomas Edmonds
Jessica D. French
H. Lane Kneedler
Brockenbrough Lamb, Jr.
E. M. Miller, Jr.
Robert L. Tavenner