

OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

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MINUTES

Colorado Commission on Uniform State Laws

Wednesday, January 28, 2015, 12 p.m.
Committee Room 0109

Roll was taken and Commissioner Grimshaw was excused. Commissioners Gardner, Keyser, Levy, Mielke, Morris, Pike, Shaffer, Steadman, and McGihon were present.

1. **Election of chairperson for 2015.** Commissioners Shaffer and McGihon were nominated for the chair position. The chairperson serves for a one year term and the responsibilities were briefly outlined for new commissioners. Paper ballots were distributed to the commissioners and Commissioner McGihon was re-elected as chair.

The commission discussed also electing a vice chair. Commissioner Pike moved that the commission elect a vice chair and that Commissioner Shaffer be elected to the vice chair position. The motion passed without objection.

2. **Proposed 2015 legislative agenda.** Prior to discussing the specific acts proposed for this session's legislative agenda, the commissioners discussed the timeline for next session's agenda. It was decided to submit bill requests for potential legislation immediately after the Uniform Laws Commission (ULC) annual meeting so that drafters could be assigned and participate in the fall drafting discussions. The Colorado Bar Association (CBA) would be notified of what bill requests had been submitted as potential CCUSL legislation. The commission would continue to invite and consider CBA and other interested parties' input at the fall meetings with the goal of approving commission bills at the December meeting.

- a. **Interstate Family Support Act Amendments (2008), LLS 15-0666.** The commission considered and answered several questions from the bill's drafter, some answers requiring changes to the draft. There was no public testimony offered. Commissioner Steadman moved that the discussed and approved changes be made to LLS 15-0666 and that the bill move forward as a commission bill. The motion passed without objection. The bill will start in the House with Representative Foote and Commissioner Steadman as its prime sponsors.

The commission had a general discussion regarding when the ULC comment

sections should be included in bills. At times the sponsor may ultimately make that decision, but the commission decided that if ULC comments are provided then they should be included. If a uniform law is significantly amended to fit Colorado's needs, then perhaps there should also be a Colorado comments section explaining the changes.

- b. **Fiduciary Access to Digital Assets Act, LLS 15-0667.** Jeremy Schupbach, CBA Legislative Director, expressed that the CBA continues to have concerns regarding the definitional section. Mr. Schupbach indicated that the Trusts & Estates section of the bar is working on some suggested language changes and have some written comments that he could have sent to the drafter and bill sponsors. Mr. Schupbach also indicated that he was unaware of any other objections to the act. Commissioner Keyser moved to approve LLS 15-0667 for introduction as a commission bill. The motion passed without objection. The bill will start in the House with Commissioners Keyser and Steadman as its prime sponsors.

Action item: CBA to work with drafter and sponsors on definitional language amendments for the first committee hearing.

- c. **Recognition of Substitute Decision-making Documents Act, LLS 15-0668.** Andy Toft, Colorado Bar Association – Real Estate (RE) Section, stated that the RE section is prepared to support this uniform act providing that it does not apply to real estate transactions in Colorado. Mr. Toft stated that the section continues to have concerns regarding possible inconsistencies with other Colorado law, translation costs, and the necessity to rely on legal advice from attorneys not familiar with Colorado law. Commissioner Shaffer moved to adopt LLS 15-0668 as a commission bill with Commissioner Steadman as its sponsor and for the commission to work with the Bar Association on any necessary amendments. The motion passed without objection.
- d. **Uniform Voidable Transactions Act (formerly the Uniform Fraudulent Transfer Act), LLS 15-0669.** Andy Toft, Colorado Bar Association – Real Estate (RE) Section, stated that the RE section does not have an overall objection to the act but does have concerns with Section 10 regarding the governing section of law and with Section 11 regarding series organizations.

The commissioners suggested that the comments section of the act seems to answer the governing law question and suggested that, although series organizations do not exist in Colorado, they do exist in other states and that it could prove beneficial to have some direction in place for handling them should the need arise. The commission also suggested that the bill draft be amended to state that nothing in the section authorizes the creation of a series organization pursuant to Colorado law. Commissioner Shaffer moved to approve LLS 15-0669, amended as discussed, as a commission bill, find a bill sponsor, and seek delayed authorization for introduction. The motion passed without objection.

Action items: Find a sponsor (s) for the bill and ask for delayed approval to waive bill deadlines.

- e. **Revisions to the Uniform Common Interest Ownership Act Section 3-116, LLS 15-0670.** Dan Sweetser, Colorado Bar Association – Real Estate (RE) Section, stated that the RE section is not taking a position on this act. Mr. Sweetzer pointed out that there could be significant opposition to the bill and that one point of particular concern was the ability to evict a homeowner. Amy Redfern, with Aponte Busam and representing the Community Associations Institute, said that the local HOA trade association shared the sentiment of the CBA and that there remained issues for Colorado that need to be more thoroughly examined. The commissioners agreed that there was growing opposition to the act but also considered that there could be significant benefit in the clarification of the priority of liens. Commissioner Pike moved to defer action on LLS 15-0670, but direct staff to bring it forward for consideration for next year’s agenda and authorize the chair to issue a letter to stakeholders to initiate discussions. The motion passed without objection.

Action items: Commissioner McGihon will prepare a letter to send to interested stakeholders regarding the continuation of discussions and bill drafting. Propose amended bill draft for next session’s legislative agenda.

3. **Other business.** Commissioner McGihon announced that there seemed to be several bills introduced this year amending last year’s human trafficking bill. Amy Redfern, with Aponte Busam and representing the Colorado Women’s Bar Association, reported on five of those bills.

Commissioner Morris, CCUSL Secretary and Office of Legislative Legal Services representative, discussed the CCUSL budget and statutory provisions for per diems and other reimbursements. Commissioner Pike shared some history of the budget, budgetary process, CCUSL’s historic practice of not seeking per diems, and other reimbursements.

4. There was no further public comment.