

OFFICE OF LEGISLATIVE LEGAL SERVICES

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MINUTES

Colorado Commission on Uniform State Laws

November 30, 2015, 1:00 p.m.

Committee Room: HCR 0112

1. Roll was taken and Commissioners Grimshaw, Keyser, Mielke, and Pike were excused. Commissioners Gardner, Levy, Morris, Shaffer, Steadman, and McGihon were present.
2. **Proposed 2016 legislative agenda**
 - a. **Uniform Fiduciary Access to Digital Assets, LLS 16-0126.** *Victoria Bantz, CBA Business Law Section*, shared with the commission the section's proposed language changes. *Stanley Kent, former CCUSL Commissioner and member of the act's drafting committee*, stated that the language change seems to be acceptable, is compatible with the act's intent, and should help the bill move forward with the CBA. He noted that this change does not necessarily address the banking industry's issues that arose late last session. The commission asked for specific examples that the new language addresses. The commission also noted for the record that although the banking industry sent the commission a letter, they have not taken the opportunity to come to a CCUSL meeting to discuss any potential concerns and remedies regarding this act.
 - b. **Uniform Voidable Transactions Act Amendments (2014), LLS 16-0127.** *Victoria Bantz, CBA Business Law Section*, stated that the section has not had a chance to review the newest draft of the act and that their issues remain unchanged. *Andy Toft, CBA Real Estate Section*, has reviewed the changes but has not discussed the changes with others in his section. The changes do appear to address the section's issues regarding governing law provisions. He also suggested that there may be other portions that may need to be removed. The commission discussed the possibility of removing other language, the choice of law in Colorado, and indicated that there was a conference call scheduled to discuss changes with the Uniform Law Commission (ULC) before a final decision is made on proposed changes.
 - c. **Uniform Recognition of Substitute Decision-Making Documents Act, LLS 16-0128.** *Catherine Hance, CBA Real Estate Section*, expressed concerns that a couple of definitions could potentially cause confusion and recommended refining some of the definitions and made some suggested language changes. *Stanley Kent, former*

CCUSL Commissioner and testifying for himself, pointed out that the act makes the recognition of health care documents easier but may send parties to go to court to arrange payments for services. Mr. Kent urged that this ambiguity in the act be addressed, perhaps in the definitions. *Jeremy Schupbach, CBA Director of Legislative Relations*, added that they have not heard back from the bar's health law section and that the trusts & estates section suggests that, instead of passing the act, Colorado amend existing law to include "or nation". The commission suggested that perhaps some of these issues could be addressed within the decision-making document. The commission also suggested the bill's title be changed to reflect that it is only a portion of the ULC act.

- d. **Revised Uniform Athlete Agents Act, LLS 16-0129.** There was no public testimony on this act.
- e. **Uniform Commercial Real Estate Receivership Act, LLS 16-0131.** *Charles Calvin, CBA Real Estate Section*, reported that adding the comments section should be helpful in providing guidance. He also indicated that the act needs more work and would like to see it identify and address the two types of receivership.
- f. **Revised Uniform Residential Landlord and Tenant Act, LLS 16-0132.** *Dan Sweetser, CBA Real Estate Section*, reported that the section is still working on the list of law changes this act would initiate in Colorado. The side-by-side comparison has not found significant conflicts with current law, just new law that will require policy decisions be made. *Erin Goff, Colorado Apartment Association*, stated that the association continues to have concerns and will most likely oppose the bill if it moves forward. The commission indicated that it has heard from landlord groups opposed to the act and would like to see the bar's synopsis of law changes before deciding whether to move forward on the bill.
- g. **Uniform Trust Decanting Act, LLS 16-0133.** *Jessica Broderick, CBA Trusts & Estates Section*, reported that the trusts & estates and family law sections have approved some suggested language changes addressing their concerns. The intent of the proposed language changes is to clarify divorce court powers without lessening or enlarging those powers. *Stanley Kent, former CCUSL Commissioner and testifying for himself*, complemented the bar's work on balancing Colorado's law with the act's changes. *Marie Moses, CBA Family Law Section*, stated the proposed changes maintain the status quo in current case law and the family law section supports it. The commission read the proposed changes into the record, directed the drafter to incorporate the new language into the bill, and thanked the bar for its hard work.
- h. **Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act, LLS 16-0134.** *Marie Moses, CBA Family Law Section*, reported that the section provided feedback on proposed language changes and that the language changes have been incorporated into the bill draft.

Commission action on bill drafts:

- Commissioner Shaffer moved that **LLS 16-0126 - Uniform Fiduciary Access to Digital Assets** move forward as a uniform act and commission bill for the 2016 legislative session. The motion was seconded by Commissioner Levy and passed without objection. The bill will start in the house with Commissioners Keyser and Steadman as its prime sponsors.
 - A decision on **LLS 16-0127 - Uniform Voidable Transactions Act Amendments (2014)** will be made at the January meeting.
 - A decision on **LLS 16-0128 - Uniform Recognition of Substitute Decision-Making Documents Act** will be made at the January meeting.
 - Commissioner Steadman moved that **LLS 16-0129 - Revised Uniform Athlete Agents Act** move forward as a uniform act and commission bill for the 2016 legislative session. The motion was seconded by Commissioner Gardner and passed without objection. Commissioner Steadman is working on sponsorship.
 - More time is needed on **LLS 16-0131 - Uniform Commercial Real Estate Receivership Act**. A progress report on it will be made at the January meeting.
 - A decision on **LLS 16-0132 - Revised Uniform Residential Landlord and Tenant Act** will be made at the January meeting.
 - A decision on **LLS 16-0133 - Uniform Trust Decanting Act** will be made at the January meeting.
 - Commissioner Steadman moved that **LLS 16-0134 - Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act** move forward as a uniform act and commission bill for the 2016 legislative session. The motion was seconded by Commissioner Levy and passed without objection. Commissioner Steadman is working on sponsorship.
3. **Election of Chairperson for 2016.** Action on this item was postponed until CCUSL's next meeting.
 4. **Next CCUSL meeting.** The commission set this for Tuesday, January 12, at 1:30 p.m.
 5. **Other business and public comment.** Commissioner Morris proposed, pursuant to the joint rules, that he and any other available commissioners provide a brief report to committees of reference about the commission and proposed uniform laws. The commission agreed to the proposal and Commissioner Morris will arrange for presentations to joint committee meetings at the beginning of session.

The commissioners briefly outlined some of the ULC committees that they are currently working on and also highlighted some newly formed committees that might be of interest to attendees:

- Commissioner Gardner – Regulation of Drones and Involuntary Pornography Websites study committees; ULC Technology Committee reviewing two proposals submitted to the Scope and Program committee

- Commissioner Steadman – Involuntary Pornography Websites study committee; special drafting committee to examine existing uniform acts to determine any conforming amendments to *Obergefell v. Hodges* Supreme Court decision
- Commissioner Shaffer – Criminal Records Accuracy drafting committee
- Commissioner Levy – Revise the Uniform Unclaimed Property Act drafting committee, Declarations of Quarantine study committee
- Commissioner McGihon – Wage Garnishment Act drafting committee
- Commissioner Morris – Driverless Cars study committee