

# OFFICE OF LEGISLATIVE LEGAL SERVICES

COLORADO GENERAL ASSEMBLY

STATE CAPITOL BUILDING, ROOM 091  
200 EAST COLFAX AVENUE  
DENVER, COLORADO 80203-1782

TELEPHONE: 303-866-2045 FACSIMILE: 303-866-4157

E-MAIL: OLLS.GA@STATE.CO.US

## MINUTES

### Colorado Commission on Uniform State Laws

November 18, 2016, 10:00 a.m.

Committee Room: HCR 0112

Roll was taken and Commissioners Grimshaw, Levy, McGihon, Mielke, Morris, Pike, Shaffer, and Willett were present. Commissioners Gardner, Pike, and Steadman were present after the roll call.

1. **There was no public comment regarding items not on the agenda.**
2. **Proposed 2017 legislative agenda**
  - a. **LLS 17-0188: Authorize Revisor To Publish Comments Uniform Acts - Charles Calvin, CBA Real Estate Law Section**, discussed situations when uniform laws are amended in non-uniform ways and cause the official comments to be no longer applicable. Official comments should be published on a case by case basis under the consideration and direction of the commission. In addition, it could be helpful for the Revisor of Statutes to note when there are non-uniform amendments made to previously-enacted uniform laws. *Letitia Maxfield, CBA Elder Law Section*, discussed the courts' use of Uniform Law Commission (ULC) official comments for interpreting ambiguities in a uniform law. ULC comments are readily available on the ULC website so it may not always be necessary to publish them. *Steve Brainerd, CBA Trusts & Estates Law Section*, discussed how official comments and Colorado comments can end up being longer than the statute text being referred to. The commission discussed the current policy of publishing official comments unless the bill's sponsor objects and issues with the publication process of Colorado comments. There were concerns regarding who is responsible for writing Colorado comments and the vetting process for them. The commission discussed the need for all Colorado comments to be identified as such and to go through the Colorado Bar Association vetting process. In addition, the commission discussed having the commission establish a policy and procedure regarding the publication of official and Colorado comments. The commission decided to not proceed with this bill at this time and will pursue a process for the quality control of published comments through a public vetting process.
  - b. **LLS 17-0189: Uniform Unsworn Declarations Act Include Domestic**. There was no public testimony regarding this bill. The commission confirmed with representatives from the Department of State's office that the office had no objections to the bill. Commissioner Steadman moved to approve LLS 17-0189 as a commission bill. The motion passed without objection.
  - c. **LLS 17-0190.02: Revised Uniform Law On Notarial Acts**. The Commission clarified that the bill being discussed is the .02 version of the bill and not the .01 version referred to in the agenda. The new version does not include the 2016 amendments

since Colorado had not adopted the original uniform act. The .02 version does incorporate changes suggested by the Department of State to conform to current Colorado law. *Tim Griesmer, Department of State's (DOS) office*, indicated the department is very supportive of the .02 draft. Colorado's notarial laws needed updating and this act takes care of those needs, as long as portions of Colorado notary law are preserved. The DOS is not prepared at this time to act on some of the amendments regarding remote notarizations and asked for their removal. The commission discussed the need for a sunset provision and asked the DOS for a suggested date for sunset provisions, should it be needed. The commission reported that the ULC has been sent the proposed changes in the .02 version and it has no concerns regarding uniformity. Commissioner Steadman moved to approve the LLS 17-0190.02 version of the Notarial Acts draft as a commission bill, with a conceptual amendment to put the sunset date at September 1, 2022. The motion passed without objection.

- d. **LLS 17-0191: Register Athlete Agents Revised Uniform Act 2015.** There was no public testimony regarding this bill. The commission pointed out some Colorado-specific changes to the bill, such as changing the managing authority to the Secretary of State's office and creating a fund. The commission also wanted to make certain that the Department of Regulatory Agencies (DORA) was sent the OLLS-prepared legal memo regarding the application of sunset provisions to the act so that a conversation could be started with DORA prior to the bill's introduction. Commissioner Mielke moved to approve LLS 17-0191, with the Colorado-specific changes, as a commission bill. The motion passed without objection.
- e. **LLS 17-0192: Uniform Wage Garnishment Act.** *Jeremiah Barry, Office of Legislative Legal Services and drafter for the bill*, pointed out that the version under consideration today is the adopted ULC version, but he has just recently received a new final draft from the ULC and asked permission to use the new final draft version for the next draft of 17-0192. Commissioner Shaffer moved to approve the new version of LLS 17-0192, as a commission bill. The motion passed without objection.
- f. **LLS 17-0193: Uniform Family Law Arbitration Act.** *Mary Avery Moses, CBA Family Law Section*. Although the CBA does not yet have an official position on this bill, it seems that several bar sections may be opposed to it. The overlay of this act over current Colorado law could prove difficult as several portions of the statutes will be affected. In addition, the act has initiated several procedural and evidentiary law questions. The commission pointed out that this bill may address some issues that current Colorado law is silent on, but did not consider a motion to move forward with the act at this time.
- g. **LLS 17-0194: Revised Uniform Unclaimed Property Act.** The commission pointed out that the version under consideration today has also just recently been amended by the ULC and to expect an updated version at the next meeting. *John Burrus, Independent Bankers of Colorado*, did not have specific objections to the act, but did share specific items of concern with the commission including a bank's right of set-off, deposit box turnovers, valuation and holding time requirements, and possible ambiguities regarding the transition to the new law. He does expect his organization to offer some amendments to the act and would like to participate in future discussions. The commission explained that unclaimed property laws are due for updates to keep up with the use of electronic records and communications and welcomes all public

input. Commissioner Levy moved to approve LLS 17-0192, as recently amended by the ULC, as a commission bill. The motion passed without objection.

**3. Updates on proposed 2017 legislative agenda items:**

- a. **Uniform Employee and Student Online Privacy Protection Act.** There was no public testimony regarding this item. The commission noted that Colorado recently passed legislation and would proceed with caution. The commission decided to defer this act for now.
- b. **Uniform Trust Code.** *Jeremy Schupbach, CBA Legislative Director.* CBA sections continue to work on reviewing this act and estimate they need another six months to for discussions and vetting. Would like to defer consideration of this act until the 2018 legislative session. The commission took no further action on this act.

**4. Colorado Bar Association updates on:**

- a. **Uniform Commercial Real Estate Receivership Act.** *Jeremy Schupbach, CBA Legislative Director,* stated that there is nothing new to report at this time. The commission expressed appreciation of the CBA's review of this act and reported that there has been some discussion of suggested language changes. The commission also indicated that it is waiting to hear back from the ULC whether the act, as proposed to be amended by the CBA real estate section members, would still be considered uniform. The commission deferred further discussion on this act until the next meeting.
- b. **Revised Uniform Residential Landlord and Tenant Act.** *Jeremy Schupbach, CBA Legislative Director,* stated that there is nothing new to report at this time. The commission took no further action on this act.

**5. Next CCUSL meeting.** Commissioners for 2017-18 terms will be appointed by joint resolution within the first few days of the 2017 Session. The commission will need to meet after the adoption of this resolution to elect a new chair and vice-chair. The next meeting was scheduled for Friday, January 27, 2017, at 1:00 p.m.

**6. Other business.**

- **Bill sponsorship.** LLS 17-0189: Uniform Unsworn Declarations Act Include Domestic and LLS 17-0190.02: Revised Uniform Law On Notarial Acts will start in the House with Commissioner Willett as the prime sponsor and Commissioner Gardner as the Senate prime sponsor. LLS 17-0191: Register Athlete Agents Revised Uniform Act 2015, LLS 17-0192: Uniform Wage Garnishment Act, and LLS 17-0194: Revised Uniform Unclaimed Property Act (providing it can move forward this year) will start in the Senate with Commissioner Gardner as the prime sponsor.

The ULC Executive Committee has approved a technical amendment to the Uniform Trust Decanting Act, which Colorado enacted last year. The General Assembly's Statutory Revision Committee may be considering taking action on the correction and there may be no need for the commission to run a bill.