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MINUTES

Colorado Commission on Uniform State Laws

January 12, 2016, 1:30 p.m.

Committee Room: HCR 0112

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

1. **Election of Chair and Vice Chair for 2016.** Commissioner Levy moved to re-elect Commissioner McGihon as Chair and Commissioner Shaffer as Vice Chair. The motion passed 6 to 1.

2. Proposed 2016 legislative agenda

- a. **Uniform Voidable Transactions Act Amendments (2014), LLS 16-0127.** Commissioner Morris reported on a conference call with members of the act's Uniform Law Commission (ULC) drafting committee, stating that the consensus of the committee was that eliminating a choice of law provision or adopting a non-standard choice of law provision would prevent this act from being considered uniform. The commission discussed the feasibility of not addressing the choice of law in the act and proceeding with the bill or not moving forward with it at this time.

Commissioner Pike moved that the commission delay action on the Uniform Voidable Transactions Act Amendments (2014), LLS 16-0127 for a year and reconsider it next year. The motion passed without objection.

- b. **Uniform Recognition of Substitute Health Care Decision-Making Documents Act, LLS 16-0128.** *Steve Brainerd, CBA Trusts & Estates Section*, reported that the bar believes that this act needs to be better integrated with current law. Current law covers documents executed in Colorado and other states and allows these documents to be honored or, if there are religious or moral reservations, allows the transfer of care. As this act does not address current law, documents executed in Canada will be treated differently than state documents and additional legislation may be required to resolve these gaps. The commission asked whether there was any way to bridge this gap within the current bill and discussed some lan-

guage changes. *Stanley Kent, former CCUSL Commissioner*, pointed out that on page 5, lines 13 and 14, the wording is meant to overlay current state laws and perhaps a conforming amendment could solve this problem. The commission's suggestion of changing the word "state" to "jurisdiction" in 15-14-509 (2), C.R.S., was met with approval. *Jeremy Schupbach, CBA Director of Legislative Relations*, reminded the commission that although it seems there is a working compromise on this act there are still bar committees that will need to review and approve it. The commission discussed whether the conforming amendment works within the bill's title, the standard practice of amending uniform acts, and potential sponsorship should the bill move forward. Commissioner Steadman indicated that he was willing to be the bill's sponsor.

Commissioner Steadman moved that the commission approve the Uniform Recognition of Substitute Health Care Decision-Making Documents Act, LLS 16-0128 as part of its 2016 legislative agenda and that it include a conforming amendment to 15-14-509 (2) to change the word "state" to "jurisdiction". The motion passed without objection.

- c. **Revised Uniform Residential Landlord and Tenant Act, LLS 16-0132.** There was no public testimony on this act. The commission discussed prior testimony regarding the need for conforming amendments to implement this act in Colorado. The bar provided a side-by-side comparison for the commission's consideration. *Jeremy Schupbach, CBA Director of Legislative Relations*, related that representatives for the bar's Real Estate Section felt that the comparison chart revealed several conflicts that would take time to address and were willing to work with the commission on the act for consideration for the 2017 session.

Commissioner Shaffer moved that the commission table the discussion on the Revised Uniform Residential Landlord and Tenant Act, LLS 16-0132 until the 2017 agenda discussion and continue working with bar association on integrating the uniform act with current Colorado law. The motion passed without objection.

- d. **Uniform Trust Decanting Act, LLS 16-0133.** *Jessica Broderick, CBA Trusts & Estates Section*, reported that the bar committee has finished studying the act and its suggested amendments have been incorporated in the latest draft of the bill. They plan to present the act to the other bar committees for their review and approval. *Kevin Millard, on behalf of himself*, pointed out that this is a lengthy bill and may need additional time for the necessary committee consideration. The commission indicated that it would be possible to introduce the bill and perhaps hold it in committee for a time, but that it was important to keep the bill moving along. Commissioner Steadman volunteered to sponsor the bill and agreed to ask for a waiver of committee deadlines to allow adequate time for consideration.

Commissioner Steadman moved that the commission approve the Uniform Trust Decanting Act, LLS 16-0133 as part of its 2016 legislative agenda. The motion passed without objection.

3. Progress report on **Uniform Commercial Real Estate Receivership Act, LLS 16-0131**. There was no public testimony or commission comment on this item.

4. **Other business and public comment.**

- Commissioner McGihon announced that there would be a vacancy on the commission due to the resignation of Commissioner Keyser. The vacancy will need to be filled with a Colorado legislator who is also an attorney. The Committee on Legal Services (COLS) will make the vacancy decision. Anyone interested in the position should let the commission know.
- Commissioner Morris updated the commission on the Joint Rule 25 hearing schedule for CCUSL status updates and presentations to joint committees of reference. Suggested topics for the presentations included the legislative agenda and any specific bills that may come before that committee, CCUSL website and information, the reason for uniform laws and how these laws fit within the federal and state systems, and readily available ULC materials.
- Commissioner Shaffer reminded the commission that the ULC has people available to assist on presenting the ULC acts and some other ULC housekeeping items.
- The commission discussed the timeline on the introduction of its bills. Commissioners are encouraged to notify other commissioners if they will be unable to testify on their CCUSL bills so that, if possible, others might be able to fill in for them.
- The next CCUSL meeting will be at the ULC annual meeting in Vermont in July, unless something unexpected comes up before then.