

# OFFICE OF LEGISLATIVE LEGAL SERVICES

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## MINUTES

### Colorado Commission on Uniform State Laws

January 27, 2017, 12:30 p.m.

Committee Room: HCR 0112

1. **Determination of a quorum.** Roll was taken and Commissioner Pike was excused. Commissioners Gardner, Levy, McGihon, Mielke, Morris, Shaffer, Steadman, and Wist were present. Commissioner Grimshaw was present after the roll call.
2. **Introduction of new commissioners and election of chair and vice-chair for 2017-18.** Commissioner Wist was introduced to the commission meeting attendees. Commissioner Steadman nominated Commissioner McGihon to continue as Chair. Commissioner Gardner seconded, and the motion passed without objection. Commissioner Gardner nominated Commissioner Wist for the Vice Chair position. Commissioner Steadman seconded, and the motion passed without objection. Commissioner Morris was appointed by acclamation to continue in his role as the commission's legislative liaison.
3. **There was no public comment regarding items not on the agenda.**
4. **Status update on introduced CCUSL bills:**
  - a. **House Bill 17-1028 Uniform Unsworn Declarations Act Include Domestic.** The bill was postponed indefinitely at the sponsor's request in order to allow the act to be reintroduced with commission sponsors. *John Burrus, Independent Bankers of Colorado*, supports this act and hopes that the commission reintroduces it, but he would like to see the use of notarized documents be included as an option in the bill. *Tim Griesmer, Department of State (DOS)*, stated that the DOS has not taken a position on the bill, but does not oppose it.

Commissioner McGihon moved that Commissioner Gardner reintroduce HB 1028 as a Senate Bill. Commissioner Steadman seconded and the motion passed without objection.
  - b. **Senate Bill 17-023 Register Athlete Agents Revised Uniform Act 2015.** The bill was heard in Senate State, Veterans, & Military Affairs and postponed indefinitely.
5. **Proposed 2017 legislative agenda:**
  - a. **LLS 17-0190.02: Revised Uniform Law On Notarial Acts (RULONA).** The commission explained the history behind the different versions of the bill. The .01 version consists of the 2016 Amendments to RULONA approved by the Uniform Law Commission

(ULC) at the annual meeting. As Colorado had not yet adopted RULONA, a .02 version of the bill was drafted and consists of RULONA without the 2016 Amendments. This version was approved for introduction at the November meeting. Since the last meeting, stakeholders have contacted commission members to advocate for allowing remote notarization in Colorado. In addition, the commission has been made aware of another bill being drafted regarding remote notarization. A .03 version of the bill, consisting RULONA with the 2016 amendments (allowing remote notarization of documents), was drafted in advance of this meeting to see if the two bills could be combined and meet commission approval, thus eliminating the need for two separate bills. The commission also has the option of introducing the .02 version and then adding the 2016 amendments to the bill by amendment during committee hearings. *Adam Pase, Notarize, Inc.*, supports the .03 version of the act with the provisions for remote notarization. The notarization industry plays an important and integral role in the American economy with more than a billion notarizations each year but the industry is not keeping up with technology. It needs better tools, security, and record keeping. *Michael Chodos, Notarize, Inc.*, emphasized that the uniform act provides a platform for change and gives the Secretary of State's office authority to bring industry standards up to speed as technology allows. It offers remote notarization as an option and not a mandate. Notarization is critical to commerce. Other states provide remote notarization services and consider the services to be safe and efficient. A video demonstration was offered and the commission decided to view the video at the end of the meeting. *Tim Griesmer, DOS*, the DOS does not support remote notarization at this time. It has concerns with identification, verification, security, and viewing standards of remote notarization as it currently exists. There were also concerns regarding record keeping retention and the ability to investigate complaints. The DOS does strongly support the .02 version of the act and would like to see the commission move forward with that version. If the commission decides to proceed forward with remote notarization legislation, the DOS would prefer to have the commission introduce a second bill for those provisions. *Megan Waples, DOS*, answered questions on current record keeping and storage. The DOS does request notary journals when complaints are filed and generally there are 50 to 75 complaints a year. She pointed out that the .02 version of the act includes additional requirements regarding journal information and the security of journals, and expressed concerns regarding keeping electronic journals secure while also making them available. *Letitia Maxfield, Colorado Bar Association (CBA)*, also voiced support for the .02 version of the act. The Bar would like time to review the 2016 amendments to see how they fit within Colorado law, their chief concern being able to maintain the validity of legal documents. *John Burrus, Independent Bankers of Colorado*, also supports the .02 version and has similar concerns to those already voiced regarding remote notarizations. He added that they are open to finding a system of remote notarization that works well and wondered how this act relates to the uniform unsworn documents act. *Diane Evans, Land Title Association of Colorado*, stated that her industry sees transacting business via remote notarization as a goal, but currently see shortfalls in its implementation and believes more study is needed.

The commission had questions regarding digital record storage, including the security and accessibility of records, who stores them, and for how long. They were told that, electronic records were stored electronically in a portable document format (pdf) with signatures and notary seals. The document is digitally sealed making the document "tamper evident", meaning that any attempt to alter the document would be visually apparent. The commission acknowledged that technology is moving in the direction of remote notarization, but decided to move forward with the introduction of the .02 ver-

sion of the uniform act (without the remote notarization language) in the Senate with Commissioners Gardner and Wist as prime sponsors. The commission agreed in the value of hosting stakeholder meetings regarding remote notarization now and acknowledged that the commission bill may be significantly amended post-introduction or amended by the introduction of a second bill adding remote notarization language. The commission requested to be invited to any stakeholder meetings held.

- b. **LLS 17-0192: Uniform Wage Garnishment Act.** There was no public testimony on this bill and no commission discussion other than that Commissioner Gardner agreed to start the bill in the Senate.
- c. **LLS 17-0194: Revised Uniform Unclaimed Property Act.** *John Burrus, Independent Bankers of Colorado*, urged the commission to not go forward with this act this year. It makes major changes to existing law, current law seems to be adequately addressing legal issues, and there doesn't seem to be an immediate need for the act in Colorado. Problems with the act include provisions that allow, under certain circumstances, one state to claim abandoned property located in another state and allow state entities to subcontract to private firms the duty to examine records for compliance. He anticipates issues with conflicts with rules in different states and federal laws and expects industry costs for the training and re-training of personnel to become a factor.

The commission noted that there were drafting questions to be determined and more feedback from the industry was desired, but that the bill should continue to move towards introduction this session. Commissioner Levy agreed to be the point person for finalizing the draft and working with interested parties. Commissioner Gardner agreed to sponsor the act as a Senate bill and to request permission to introduce the bill later in the session.

- d. **LLS 17-0188: Authorize Revisor to Publish Comments on Uniform Acts.** *Letitia Maxfield, CBA Legislative Policy Committee*, opposes the bill. Official comments can be lengthy for some bills and suggested that a note at the end of the statute directing people to the ULC's website might be appropriate and equally adequate. She is concerned that the mandatory publication of the official comments could require writing Colorado comments to explain any adjustments made to the uniform act in Colorado and possibly require writing additional comments when uniform language is amended in the future. Some of the current issues with comment submittal and publication may have been a result of miscommunication and perhaps a better understanding of the scope and process for submitting comments is all that is needed.

The commission noted that currently there is not a process for the review of Colorado comments before they are published in the statutes. It also expressed concerns regarding the perception of the time commitment that might be required on the part of those submitting Colorado comments and interest in exploring the option to direct people to the ULC website for official comments and other information. The commission set aside the discussion for now, but stated that there is a need to discuss a process for producing, approving, and publishing Colorado comments. The CBA expressed interest in working with the commission on this issue.

## 6. Status of other uniform laws:

- a. **Uniform Commercial Real Estate Receivership Act.** The commission commended the CBA, especially the Real Estate Section of the CBA, for its work on this act and noted that a productive conference call with the chair of the drafting committee was held.

While the CBA's proposed changes would make the act nonuniform, there will still be many portions of the act that could be used in Colorado as a nonuniform act.

- b. Uniform Employee and Student Online Privacy Protection Act.** There was nothing new to report at this time.
- 7. CCUSL Budget.** No public testimony offered and it was not discussed during the meeting. A budget information sheet was included in the agenda package for commissioners to review.
- 8. Next meeting.** The commissioners will meet during the July ULC annual meeting in San Diego to set a preliminary legislative agenda to be discussed at public meetings in the fall.
- 9. Other business.** The commission watched portions of a video presentation from Notarize, Inc.