

# **COLORADO COMMISSION ON UNIFORM STATE LAWS**

## **REPORT - JANUARY 2015**

### **I. PREAMBLE**

To the Honorable Governor, John Hickenlooper; the Chief Justice of the Colorado Supreme Court, Nancy E. Rice; the Chief Judge of the Colorado Court of Appeals, Alan M. Loeb; the President-elect of the Senate, Bill L. Cadman; the Speaker-elect of the House of Representatives, Dickey Lee Hullinghorst; and the members of the Colorado General Assembly. The Colorado Commission on Uniform State Laws respectfully submits this Annual Report.

### **II. HISTORY OF THE UNIFORM LAW COMMISSION**

In 1889, the New York Bar Association appointed a special committee on uniformity of laws. In the next year, the New York Legislature authorized the appointment of commissioners "to examine certain subjects of national importance that seemed to show conflict among the laws of the several commonwealths, to ascertain the best means to effect an assimilation or uniformity in the laws of the states, and especially whether it would be advisable for the State of New York to invite the other states of the Union to send representatives to a convention to draft uniform laws to be submitted for approval and adoption by the several states." In that same year, the American Bar Association passed a resolution recommending that each state provide for commissioners to confer with the commissioners of other states on the subject of uniformity of legislation on certain subjects. In August, 1892, the Uniform Law Commission (ULC, also known as the National Conference of Commissioners on Uniform State Laws) was formed, and the first national conference of ULC state commissioners convened in Saratoga, New York, three days preceding the annual meeting of the American Bar Association.

By 1912, every state was participating in the ULC. In each year of service, the ULC has steadily increased its contribution to state law. Because of that contribution, it very early became known as a distinguished body of lawyers. The ULC has attracted some of the best of the profession. In 1912, Woodrow Wilson became a member. This, of course, was before his more notable political prominence and service as President of the United States. Several people who later became Justices of the Supreme Court of the United States have been members: former Justices Brandeis and Rutledge and former Chief Justice Rehnquist. Legal

scholars have served in large numbers. Examples are professors Wigmore, Williston, Pound, and Bogert. Many distinguished lawyers have served since 1892, though their names are not as well known in legal affairs and the affairs of the United States. This distinguished body has guaranteed that the products of the ULC are of the highest quality and are enormously influential upon the process of the law.

The ULC is a confederation of state interests. It arose out of the concerns of state government for the improvement of the law and for better interstate relationships. Its sole purpose has been, and remains, service to state government and improvement of state law.

### **III. THE OPERATION OF THE ULC**

The ULC convenes as a body once a year. It meets for a period of eight to twelve days, usually in late July or early August. In the interim period between the annual meetings, drafting committees composed of commissioners meet to supply the working drafts that are considered at the annual meeting. At each national conference, the work of the drafting committees is read and debated. Each Act must be considered over a substantial period of years. An Act does not become officially recognized as a Uniform Act until the ULC is satisfied that it is ready for consideration in the state legislatures. It is then put to a vote of the states, during which each state caucuses and votes as a unit.

The governing body is the ULC Executive Committee, and is composed of the officers, certain ex officio members, and members appointed by the President of the ULC. Certain activities are conducted by standing committees. For example, the Committee on Scope and Program considers all new subject areas for possible Uniform Acts. The Legislative Committee superintends the relationships of the ULC to the state legislatures. A small staff located in Chicago operates the national office of the ULC. The national office handles meeting arrangements, publications, legislative liaison, and general administration for the ULC. The total staff numbers only fifteen people.

The ULC maintains relations with several sister organizations. Official liaison is maintained with the American Bar Association, which contributes each year to the operation of the ULC. Liaison is also maintained with the American Law Institute, the Council of State Governments, and the National Conference of State Legislatures on an ongoing basis. Liaison and activities may be conducted with other associations as interests and activities necessitate.

### **IV. ACTIVITIES OF THE COLORADO COMMISSIONERS**

- A. Participation of the Colorado commissioners in the ULC is provided for in part 6 of article 3 of title 2, Colorado Revised Statutes. Colorado's commissioners must be

attorneys admitted to practice law in Colorado. Six members are appointed or reappointed by joint resolution of the General Assembly, of whom at least two must be legislators and at least two must be members of the public at large. Commissioners serve terms of two years.

In addition, any Colorado citizen who is elected as a life member of the ULC (after twenty years of membership) is a member of the Colorado Commission. The currently active life members are Thomas Grimshaw, Charles Pike, and Donald Mielke. The director of the Office of Legislative Legal Services, or the director's designee, has the same status as appointed members of the Commission and also serves as the ex officio secretary of the Colorado Commission. Thomas Morris currently serves as the Director's designee to the Commission.

- B. The current Colorado commissioners and their offices or committee assignments are:

**Robert S. Gardner**, Member of the State House of Representatives  
Study Committee on Veterans Court Act

**Thomas T. Grimshaw**, Retired, Private Law Practice

**Stanley C. Kent**, Private Law Practice  
Standby Committee on Fiduciary Access to Digital Assets  
Drafting Committee on Guardianship and Protective Proceedings Act  
Drafting Committee on Trust Decanting

**Claire B. Levy**, Executive Director, Colorado Center on Law and Policy  
Standby Committee on Military and Overseas Voters Act  
Drafting Committee to Revise the Uniform Unclaimed Property Act

**Donald E. Mielke**, Private Law Practice  
Enactment Committee on Emergency Volunteer Health Practitioners  
Standby Committee on U.N. E-Commerce Convention  
Drafting Committee on Commercial Real Estate Receivership Act  
Drafting Committee to amend Uniform Athlete Agents Act  
Study Committee on Alternative and Mobile Payment Systems

**Anne L. McGihon**, Private Law Practice  
Chair of the Colorado Commission on Uniform State Laws  
Drafting Committee to amend Uniform Athlete Agents Act  
Drafting Committee on Wage Garnishment Act  
Study Committee on the Enforcement of Child Custody and Child Support Orders

**Thomas Morris**, Managing Senior Attorney, Office of Legislative Legal Services

Secretary of the Colorado Commission on Uniform State Laws  
ULC Committee of Legislative Attorneys  
Study Committee on the State Regulation of Driverless Cars

**Charles W. Pike**, Former Director, Office of Legislative Legal Services

**Brandon Shaffer**, Chairperson, Colorado Parole Board

C. Colorado Commissioners attending the ULC Annual Meeting held July 11-17, 2014, were:

Representative Robert S. Gardner, Thomas Grimshaw, Stanley C. Kent, Claire B. Levy, Anne L. McGihon, Donald E. Mielke, Thomas Morris, and Brandon Shaffer.

## **V. A SUMMARY OF NEW ACTS**

The following are summaries of new acts adopted in final form by the ULC at the most recent ULC annual meeting:

### **The Uniform Fiduciary Access to Digital Assets Act**

The Uniform Fiduciary Access to Digital Assets Act is an important update for the Internet age. A generation ago, files were stored in cabinets, photos were stored in albums, and mail was delivered by a human being. Today, we are more likely to use the Internet to communicate and store our information. This act ensures account-holders retain control of their digital property and can plan for its ultimate disposition after their death. Unless the account-holder instructs otherwise, legally appointed fiduciaries will have the same access to digital assets as they have always had to tangible assets, and the same duty to comply with the account-holder's instructions.

### **The Uniform Recognition of Substitute Decision-making Documents Act**

The Uniform Recognition of Substitute Decision-Making Documents Act is a joint endeavor of the Uniform Law Commission and the Uniform Law Conference of Canada. The project was undertaken to promote the portability and usefulness of substitute decision-making documents for property, health care, and personal care, without regard to whether the documents are created within or outside of the jurisdiction where a substitute decision is needed. Common examples of substitute decision-making documents include powers of attorney and proxy delegations for personal decision making.

### **The Uniform Voidable Transactions Act**

The Uniform Voidable Transactions Act (UVTA), formerly named the Uniform Fraudulent Transfer Act (UFTA), strengthens creditor protections by providing remedies for certain transactions by a debtor that are unfair to the debtor's creditors. The 2014 amendments to the UVTA address a small number of narrowly-defined issues, and are not

a comprehensive revision of the act.

**Amendments to Section 3-116 of the Uniform Common Interest Ownership Act**

The amendments concern the six-month "limited priority" lien for unpaid common expense assessments owed to community associations.

**VI. RECOMMENDATIONS FOR ENACTMENT  
AND FOR OTHER ACTION**

The Colorado commissioners met with representatives of the Colorado Bar Association in August and December of 2014 to discuss uniform acts and to consider recommendations that the Colorado Commissioners will make to the General Assembly. The commissioners voted to begin drafting the following acts for introduction in the General Assembly's 2015 Regular Session: the Uniform Fiduciary Access to Digital Assets Act, the Uniform Recognition of Substitute Decision-Making Documents Act, the Uniform Voidable Transactions Act, Amendments to Section 3-116 of the Uniform Common Interest Ownership Act, and Interstate Family Support Act Amendments (2008)\*.

**\*Interstate Family Support Act Amendments (2008)** -- The 2008 UIFSA Amendments modify the current version of UIFSA's international provisions to comport with the obligations of the United States under the 2007 Hague Convention on Maintenance. 2014 federal legislation requires all states to enact the 2008 UIFSA Amendments as a condition of continuing to receive federal funds for state child support programs. Failure to enact these amendments during the 2015 legislative session may result in a state's loss of important federal funding.

**VII. ENACTMENT RECORD, TO DATE**

Colorado has an enviable record for enacting Uniform Acts. More than one hundred individual acts have been adopted in Colorado. A complete listing of Uniform Acts adopted by Colorado is attached as Appendix A.

# APPENDIX A

## Uniform Acts Adopted by Colorado with the Year That *Colorado* Adopted the Act Designated in Parenthesis.

Act Regulating Traffic on Highways (1931)  
Act to Secure the Attendance of Witnesses From Without a State in Criminal Proceedings (1939)  
Adult Guardianship and Protective Proceedings Jurisdiction Act (2008)  
Alcoholism and Intoxication Treatment Act (1973)  
Anatomical Gift Act (1969) and (2007)  
Arbitration Act (1975) and (2004)  
Asset Freezing Orders Act (2013)  
Athlete Agents Act (2008)  
Certification of Questions of Law Act (1969)  
Child Abduction Prevention Act (2007)  
Child Custody Jurisdiction Act (1973)  
Commercial Code (1965)  
Commercial Code, Article 1 (2006)  
Commercial Code, Article 2A (1991)  
Commercial Code, Articles 3 & 4 (1994)  
Commercial Code, Article 4A (1990)  
Commercial Code, Article 4A (2012 Amendments) (2013)  
Commercial Code, Article 5 (1996)  
Commercial Code, Article 6 Repeal (1991)  
Commercial Code, Article 7 (2006)  
Commercial Code, Article 8 (1985 Amendments) (1996)  
Commercial Code, Article 9 Amendments (1977)  
Commercial Code, Article 9 (2001)  
Commercial Code, Article 9 Amendments (2002)  
Commercial Code, Article 9 Amendments (2012)  
Common Interest Ownership Act (1991)  
Common Trust Fund Act (1947)  
Conflict of Law Limitations Act (1984)  
Consumer Credit Code (1971)  
Controlled Substances Act (1992)  
Contribution Among Tortfeasors Act, Revised 1955 (1977)  
Criminal Extradition Act (1953)  
Debt-Management Services Act (2007)  
Deceptive Trade Practices Act, Revised 1966 (1969)  
Declaratory Judgments Act (1923)  
Deployed Parents Custody and Visitation Act (2013)  
Determination of Death Act (1981)  
Disclaimer of Property Interests Act (2011)  
Disposition of Community Property Rights at Death Act (1973)  
Division of Income for Tax Purposes Act (1968)  
Durable Power of Attorney Act (1973)  
Duties to Disabled Persons Act (1973)  
Electronic Legal Material Act (2012)  
Electronic Transactions Act (2002)  
Emergency Volunteer Health Practitioners Act (2007)  
Enforcement of Foreign Judgments Act, Revised 1964 (1969)  
Estate Tax Apportionment Act (2011)  
Facsimile Signatures of Public Officials Act (1969)  
Federal Tax Lien Registration Act, Revised 1966 (1969)  
Fiduciaries Act (1923)  
Fraudulent Transfers (1991)  
Foreign Money Claims Act (1990)  
Foreign-country Money Judgments Recognition Act (2008)  
Gifts to Minors Act, Revised 1966 (1967)  
Insurers Liquidation Act (1955)  
Interstate Arbitration of Death Taxes Act (1953)  
Interstate Compromise of Death Taxes Act (1953)  
Interstate Depositions and Discovery Act (2008)  
Interstate Family Support Act (1993) (2003)  
Judicial Notice of Foreign Law Act (1967)  
Jury Selection and Service Act (1971)  
Limited Cooperative Associations Act (2011)  
Limited Partnership Act (1931)  
Limited Partnership Act, Revised 1976 (1981)  
Management of Institutional Funds Act (1973)  
Mandatory Disposition of Detainers Act (1969)  
Marriage and Divorce Act (1971)  
Military and Overseas Voters Act (2011)  
Motor Vehicle Operators' and Chauffeurs' License Act (1931)  
Motor Vehicle Registration Act (1931)  
Narcotic Drug Act (1935)  
Negotiable Instruments Law (1897)  
Nonprofit Association Act (1994)  
Parentage Act (1977)  
Partnership Act (1931) (1997)  
Photographic Copies of Business and Public Records as Evidence Act (1955)  
Powers of Appointment Act (2014)  
Power of Attorney Act (2009)  
Premarital and Marital Agreements Act (2013)  
Principal and Income Act (1955) and (2000)  
Principal and Income Act, Amendments (2009)  
Probate Code (1973)  
Probate Code, Amendments (1975) and (2009)  
Probate Code, Article II, (1994)  
Probate Code, Rule Against Perpetuities (1991)

Probate Code, Article VI, Amendments (1990)  
Probate Code, Custodial Trust Act (1999)  
Probate Code, Guardianship & Protective Proceedings (2000)  
Prudent Investor Act (1995)  
Prudent Management of Institutional Funds Act (2008)  
Reciprocal Enforcement of Support Act (1951)  
Reciprocal Enforcement of Support Act, Amended 1958 (1961)  
Reciprocal Enforcement of Support Act, Amended, Revised 1968 (1971)  
Reciprocal Transfer Tax Act (1943)  
Recognition of Acknowledgments Act (1969)  
Rendition of Accused Persons Act (1972)  
Sales Act (1941)  
Securities Act (1961)  
Simplification of Fiduciary Security Transfers Act (1959)  
Simultaneous Death Act (1943)  
Simultaneous Death Act, Amended 1953 (1967)  
Statutory Construction Act (1973)  
Statutory Form Power of Attorney Act (1992)  
Stock Transfer Act (1927)  
Trade Secrets Act (1983)  
Trade Secrets Act, Amended 1985 (1986)  
Transboundary Pollution Reciprocal Access Act (1984)  
Transfer of Dependents Act (1937)  
Transfers to Minors Act (1984)  
Uniform Trust Code, 2010 Insurable Interest Amendments (2011)  
Unclaimed Property Act (1987)  
Unsworn Foreign Declarations Act (2009)  
Veteran's Guardianship Act (1929)  
Veteran's Guardianship Act, Revised 1942 (1945)  
Victims of Crime (1992)  
Warehouse Receipts Act (1911)  
Warehouse Receipts Act, Amended 1922 (1923)