

ANNUAL REPORT FOR 2019

April, 2020

I. PREAMBLE

To the Honorable Edward Miner Lamont, Jr., Governor of the State of Connecticut and members of the Connecticut General Assembly. The Connecticut Commissioners on Uniform State Laws respectfully submit this annual report.

II. OVERVIEW OF UNIFORM LAW COMMISSION

The Uniform Law Commission (ULC), also known as the National Conference of Commissioners on Uniform State Laws, has worked for the uniformity of state laws since 1892. It is comprised of state commissions on uniform laws from each state, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. Each jurisdiction determines the method of appointment and the number of commissioners appointed. Most jurisdictions provide for their commission by statute. The longstanding statutory authority governing Connecticut's uniform law commission can be found at Section 2-80 of the Connecticut General Statutes.

There is only one fundamental requirement for the more than 300 uniform law commissioners: that they are members of the bar. While some commissioners serve as state legislators and other state officials, most are practitioners, judges and law professors. Uniform law commissioners serve for specific terms and receive no salaries or fees for their work with the Uniform Law Commission.

Commissioners study and review the law of the states to determine which areas of law should be uniform. The commissioners promote the principle of uniformity by drafting and proposing specific statutes in areas of the law where uniformity between the states is desirable. The ULC can only propose – no uniform law is effective until a state legislature adopts it.

The work of the ULC simplifies the legal life of businesses and individuals by providing rules and procedures that are consistent from state to state. Representing both state government and the legal profession, it is a genuine coalition of state interests. It has sought to bring uniformity to the divergent legal traditions of more than 50 jurisdictions – and has done so with significant success.

III. HISTORY

On August 24, 1892, representatives from seven states – Delaware, Georgia, Massachusetts, Michigan, New York, New Jersey and Pennsylvania – met in Saratoga Springs, New York, to form what is now known as the Uniform Law Commission. By 1912, every state was participating in the ULC. The U.S. Virgin Islands was the last jurisdiction to join, appointing its first commission in 1988.

Very early on the ULC became known as a distinguished body of lawyers. The ULC has attracted some of the best of the profession. In 1901, Woodrow Wilson became a member. This, of course, was before his more notable political prominence and service as President of the United States. Several persons, later to become Justices of the Supreme Court of the United States, have been members: former Justices Brandeis, Rutledge, and Souter, and former Chief Justice Rehnquist. Legal scholars have served in large numbers, including Professors Wigmore, Williston, Pound and Bogert. Many more distinguished lawyers have served since 1892.

In each year of service, the ULC steadily increased its contribution to state law. Since its founding, the ULC has drafted more than 200 uniform laws on numerous subjects and in various fields of law, setting patterns for uniformity across the nation. Uniform Acts include the Uniform Probate Code, the Uniform Partnership Act, the Uniform Limited Partnership Act, the Uniform Anatomical Gift Act, the Uniform Interstate Family Support Act, the Uniform Child Custody Jurisdiction and Enforcement Act, and the Uniform Prudent Management of Institutional Funds Act.

Most significant was the 1940 ULC decision to attack major commercial problems with comprehensive legal solutions – a decision that set in motion the project to produce the Uniform Commercial Code (UCC). Working with the American Law Institute, the UCC took ten years to draft and another 14 years before it was enacted across the country. It remains the signature product of the ULC.

Today the ULC is recognized primarily for its work in commercial law, family law, the law of probate and estates, the law of business organizations, health law, and conflicts of law.

The Uniform Law Commission 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.

IV. DIVERSITY STATEMENT

Each member jurisdiction determines the number of uniform law commissioners it appoints to the Uniform Law Commission, the terms of uniform law commissioners and the individuals who are appointed from the legal profession of that jurisdiction. The Uniform Law Commission encourages the appointing authorities to consider, among other factors, diversity of membership in their uniform law commissions, including race, ethnicity and gender in making appointments. The Uniform Law Commission does its best work when the uniform law commissioners are drawn from diverse backgrounds and experiences.

V. PROCEDURES

The ULC is convened as a body once a year. It meets for a period of six or seven days, usually in July or August. In the interim period between these annual meetings, drafting committees composed of Commissioners meet to supply the working drafts that are considered at the annual meeting. At each annual meeting, the work of the drafting committees is read and debated. Each Act must be considered over a substantial period of years. No Act becomes officially recognized as a Uniform Act until the Uniform Law Commission 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 ULC President. Certain activities are conducted by the 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 ULC maintains relations with several sister organizations. Official liaison is maintained with the American Bar Association, which provides advisors to all ULC drafting committees and many ULC study committees. Liaison is also maintained with the American Law Institute, the Council of State Governments, the National Conference of State Legislatures, the National Association of Secretaries of State, the Conference of Chief Justices, and the National Center for State Courts on an on-going and as-needed basis. Liaison and activities are conducted with other organizations as interests and activities necessitate.

VI. ACTIVITIES OF THE CONNECTICUT COMMISSIONERS

A. The Connecticut Commissioners are:

David D. Biklen, Chair	John H. Langbein
Mary M. Ackerly	Louise M. Nadeau
William R. Breetz, Jr.	Francis J. Pavetti
Abbe R. Gluck	Suzanne Brown Walsh
Barry C. Hawkins	

B. The ULC committee assignments and other positions for Commissioners from Connecticut are:

Mary (Molly) M. Ackerly

- Chair, Division A
- Member, Drafting Committee on Disposition of Community Property Rights at Death Act
- Member, Drafting Committee on Easement Relocation Act
- Member, Standby Committee on Uniform Fiduciary Income and Principal Act
- Member, Standby Committee on Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act
- Member, Standby Committee on Uniform Parentage Act
- Member, Standby Committee on Uniform Trust Decanting Act

David D. Biklen

- Member, Study Committee on Event Data Recorders in Cars
- Member, Standby Committee on Uniform Fiduciary Access to Digital Assets Act
- Member, Standby Committee on Uniform Nonparent Custody and Visitation Act
- Chair, Standby Committee on Uniform Real Property Electronic Recording Act
- Member, Standby Committee on Uniform Unclaimed Property Act
- Chair, Drafting Committee on Unregulated Transfers of Adopted Children
- Member, Standby Committee on Uniform Wage Garnishment Act

William R. Breetz

- Vice President, Uniform Law Commission
- Member, Executive Committee
- Chair, Drafting Committee to Revise Uniform Common Interest Ownership Act

- Member, Drafting Committee on Electronic Registry for Residential Mortgage Notes
- Chair, Standby Committee on Uniform Home Foreclosure Procedures Act
- Emeritus Member, Joint Editorial Board for Uniform Real Property Acts
- Member, Standby Committee on Uniform Partition of Heirs Property Act

Abbe R. Gluck

- Member, Academic Partnerships Committee
- Chair, Committee to Monitor Developments in Healthcare Law
- Member, Study Committee on Telehealth

Barry C. Hawkins

- Member, Committee on Liaison with American Bar Association
- Member, Standby Committee on Uniform Arbitration Act
- Member, Standby Committee on Uniform Fiduciary Income and Principal Act
- Member, Standby Committee on Uniform Home Foreclosure Procedures Act
- Chair, Joint Editorial Board for Uniform Real Property Acts
- Member, ULC Legislative Committee
- Member, Standby Committee on Uniform Military and Overseas Voters Act
- Member, Standby Committee on Model Protection of Charitable Assets Act
- Member, Standby Committee on Model Veterans Treatment Court Act

John H. Langbein

- Member, Standby Committee on Uniform Directed Trust Act
- Member, Drafting Committee on Economic Rights of Unmarried Cohabitants Act
- Member, Drafting Committee on Conflict of Laws in Trusts and Estates Act
- Member, Standby Committee on Uniform Electronic Wills Act
- Member, Standby Committee on Uniform Fiduciary Income and Principal Act
- Emeritus Member, Joint Editorial Board for Uniform Trust and Estate Acts

Louise M. Nadeau

- Member, Standby Committee for Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act
- Vice-Chair, Criminal Justice Reform Committee
- Member, Standby Committee on Uniform Criminal Records Accuracy Act
- Member, Committee on Legislative Attorneys
- Member, Style Committee

Francis J. Pavetti

- Chair, Standby Committee on Uniform Arbitration Act
- Member, Standby Committee on Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act

Suzanne B. Walsh

- Member, Standby Committee on Uniform Adult Guardianship and Protective Proceedings Act
- Member, Standby Committee on Uniform Directed Trust Act
- Chair, Standby Committee on Uniform Electronic Wills Act
- Chair, Standby Committee on Uniform Fiduciary Access to Digital Assets Act
- Member, Drafting Committee on Fundraising through Public Appeals
- Member, Drafting Committee on Conflict of Laws in Trusts and Estates Act
- Member, Joint Editorial Board for Uniform Trust and Estate Acts
- Member, Legislative Council
- Member, Standby Committee on Uniform Powers of Appointment Act
- Member, Standby Committee on Uniform Premarital Agreement Act
- Member, Standby Committee on Uniform Regulation of Virtual Currency Businesses Act
- Member, Standby Committee on Uniform Trust Decanting Act

C. Meetings held by the Connecticut Commissioners in the year 2019 were:

1. July 15, 2019 – A meeting held by those Commissioners from Connecticut at the ULC Annual Meeting in Anchorage, Alaska, to plan legislative activities for the 2020 regular session of the General Assembly.

D. Connecticut Commissioners attending the ULC Annual Meeting were:

Mary M. Ackerly

David D. Biklen

William R. Breetz, Jr.

Barry C. Hawkins

John H. Langbein

Louise M. Nadeau

Suzanne Brown Walsh

E. Legislative appearances by the Connecticut Commissioners in the year 2019 were:

- Barry Hawkins testified on March 6, 2019 on the Uniform Commercial Real Estate Receivership Act, HB 7271

VII. A SUMMARY OF NEW ACTS ADOPTED BY THE COMMISSION - 2019:

1. Uniform Automated Operation of Vehicles Act:

The Uniform Automated Operation of Vehicles Act regulates important aspects of the operation of automated vehicles. The act covers the deployment of automated vehicles on roads held open to the public by reconciling automated driving with a typical state motor vehicle code. Many of the act's sections – including definitions, driver licensing, vehicle registration, equipment, and rules of the road – correspond to, refer to, and can be incorporated into existing sections of a typical vehicle code. The act also introduces the concept of automated driving providers (ADPs) as a legal entity that must declare itself to the state and designate the automated vehicles for which it will act as the legal driver when the vehicle is in automated operation. The ADP might be an automated driving system developer, a vehicle manufacturer, a fleet operator, an insurer, or another kind of market participant that has yet to emerge. Only an automated vehicle that is associated with an ADP may be registered. In this way, the Automated Operation of Vehicles Act uses the motor vehicle registration framework that already exists in states – and that applies to both conventional and automated vehicles – to incentivize self-identification by ADPs. By harnessing an existing framework, the act also seeks to respect and empower state motor vehicle agencies.

2. Uniform Electronic Wills Act:

The Uniform Electronic Wills Act permits testators to execute an electronic will and allows probate courts to give electronic wills legal effect. Most documents that were traditionally printed on paper can now be created, transferred, signed, and recorded in electronic form. Since 2000 the Uniform Electronic Transactions Act (UETA) and a similar federal law, E-SIGN have provided that a transaction is not invalid solely because

the terms of the contract are in an electronic format. However, UETA and E-SIGN both contain an express exception for wills, which, because the testator is deceased at the time the document must be interpreted, are subject to special execution requirements to ensure validity and must still be executed on paper in most states. Under the new Electronic Wills Act, the testator's electronic signature must be witnessed contemporaneously (or notarized contemporaneously in states that allow notarized wills) and the document must be stored in a tamper-evident file. States will have the option to include language that allows remote witnessing. The act will also address recognition of electronic wills executed under the law of another state. For a generation that is used to banking, communicating, and transacting business online, the Uniform Electronic Wills Act will allow online estate planning while maintaining safeguards to help prevent fraud and coercion.

3. Uniform Registration of Canadian Money Judgments Act:

The Uniform Registration of Canadian Money Judgments Act will facilitate the enforcement of Canadian money judgments in the United States in a manner comparable to the way U.S. money judgments are enforced in Canada through its Canadian Uniform Enforcement of Foreign Judgments Act. The Act is intended to supplement the Uniform Foreign Country Money Judgments Recognition Act (Recognition Act), which Connecticut adopted in 1988 (see Sections 50a-30 to 50a-38, inclusive, of the Connecticut General Statutes)

4. Amendment to the Uniform Athlete Agents Act:

An Amendment to the Uniform Athlete Agents Act applies to changes that the NCAA made to its bylaws in August of 2018 to provide student athletes with more freedom and flexibility to explore the possibility of going professional while retaining their college eligibility. Under the new NCAA bylaws, certified sports agents can cover limited expenses of a prospective or enrolled student-athlete and their family for meals, hotel and travel in connection with the agent selection process. Because the NCAA bylaw changes were in conflict with the Athlete Agents Acts, the NCAA asked the ULC to amend the two Uniform Athlete Agents Acts so they will not conflict with the bylaw changes. The Section 14 Amendment was drafted to clear up the conflict; it was also drafted so that it applies beyond the current bylaws to ensure that the ULC will not have to go to state legislatures every time the NCAA broadens its bylaws. The amendment does, however, set forth appropriate safeguards so that it only applies if the NCAA makes further changes.

5. Amendments to the Uniform Probate Code:

The promulgation of the Uniform Parentage Act in 2017 necessitated conforming amendments to the Uniform Probate Code's intestacy and class-gift provisions. The 2019 Amendments to the Uniform Probate Code provide a more consistent formula for determining intestate shares within blended families, remove outdated terminology, and incorporate the concept of de facto parentage. The intestacy formulae will also account

for the possibility that a child may have more than two parents, and therefore more than two sets of grandparents.

6. Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act:

The Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act (the “Supplemental Act”) is a follow-up to the Uniform Regulation of Virtual-Currency Businesses Act (“URVCBA”). The URVCBA establishes a regulatory framework for virtual-currency businesses to operate either by license or registration in a state and creates safeguards to protect consumers. As a regulatory act, the URVCBA provides numerous robust user protections based on commercial law principles but does not directly address the commercial law rules for transactions and relationships between virtual-currency businesses and consumers. This Supplemental Act provides the commercial law rules using the time-tested duties and rights of customers of securities intermediaries under the Uniform Commercial Code. The Supplemental Act does this by incorporating Article 8 of the Uniform Commercial Code into the agreement made between a virtual-currency licensee or registrant and users.

VIII. SUMMARY OF ACTS INTRODUCED BY THE UNIFORM LAW COMMISSION IN CONNECTICUT IN 2019

1. Uniform Trust Code

The Uniform Trust Code (UTC) is primarily a codification of the common law of trusts. It was first completed 18 years ago and has since been adopted by 31 states and the District of Columbia. It is a comprehensive statute, governing the creation, administration, modification, and termination of trusts. The UTC imposes strict fiduciary duties on trustees and holds them accountable to trust beneficiaries. The UTC also modernizes the law of trusts, adding flexibility enough to allow settlors and their advisors to tailor the terms of a trust to address the needs of any family. The UTC will also prevent unnecessary litigation by clarifying and codifying current trust laws, many of which are contained only in court decisions. This Act was introduced as H.B. 7104 and was enacted as Public Act 19-137.

2. Uniform Directed Trust Act

The Uniform Directed Trust Act (UDTA) addresses the rise of directed trusts. In a directed trust, a person other than a trustee has a power over some aspect of the trust’s administration. Such a person may be called a “trust protector,” “trust adviser,” or in the terminology of the UDTA, a “trust director.” The division of authority between a trust director and a trustee raises difficult questions about how to divide fiduciary power and duty. The UDTA provides clear, functional rules that allow a settlor to freely structure a directed trust while preserving key fiduciary safeguards for beneficiaries. The UDTA also provides sensible default rules for a variety of matters that might be overlooked in the

drafting of a directed trust, including information sharing among trustees and trust directors, the procedures for accepting appointment as a trust director, the distinction between a power of direction and a nonfiduciary power of appointment, and many other matters. This Act was introduced as S.B. 397, and was ultimately enacted as Sections 81 to 98, inclusive, of Public Act 19-137.

3. Uniform Protected Series Act

The Uniform Protected Series Act provides a comprehensive framework for the formation and operation of a protected series limited liability company. A protected series LLC has both “horizontal” liability shields, as well as the standard “vertical” liability shield. All modern business entities provide the traditional, “vertical” shield – protecting the entity’s owners (and their respective assets) from automatic, vicarious liability for the entity’s debts. A “series” limited liability company provides “horizontal” shields – protecting each protected series (and its assets) from automatic, vicarious liability for the debts of the company and for the debts of any other protected series of the company. A horizontal shield likewise protects the series limited liability company (and its assets) from creditors of any protected series of the company. The Act integrates into any existing LLC Act, whether it is the Uniform Limited Liability Company Act or not. This Act was introduced as H.B. 5217, and H.B. 7127. H.B. 7127 was reported favorably by the Judiciary Committee but was not enacted.

4. Uniform Commercial Real Estate Receivership Act

The Uniform Commercial Real Estate Receivership Act brings uniformity and consistency to all Connecticut courts and provides a statutory remedy for persons to collect on a mortgage or debt secured by commercial real estate. Receivership is an equitable remedy allowing a court to oversee the orderly management and disposition of property subject to a lawsuit. Although the remedy is not new, there is no standard set of receivership rules and courts of different states have applied widely varying standards. This Uniform Commercial Real Estate Receivership Act (UCRERA) applies to receiverships involving commercial real estate, and provides a standard set of rules for courts to apply. The Act will result in greater predictability for litigants, lenders, and other parties doing business with a company subject to receivership. The Act was introduced as H.B. 7271, reported favorably by the Judiciary Committee and voted out of the House but was not enacted.

IX. RECOMMENDATIONS FOR ENACTMENT IN 2020

A. The Connecticut Commissioners recommend that these Uniform and Model Acts be considered in the regular legislative session beginning February, 2020:

1. Uniform Protected Series Act

The Uniform Protected Series Act provides a comprehensive framework for the formation and operation of a protected series limited liability company. A protected series LLC has both “horizontal” liability shields, as well as the standard “vertical” liability shield. All modern business entities provide the traditional, “vertical” shield – protecting the entity’s owners (and their respective assets) from automatic, vicarious liability for the entity’s debts. A “series” limited liability company provides “horizontal” shields – protecting each protected series (and its assets) from automatic, vicarious liability for the debts of the company and for the debts of any other protected series of the company. A horizontal shield likewise protects the series limited liability company (and its assets) from creditors of any protected series of the company. The Act integrates into any existing LLC Act, whether it is the Uniform Limited Liability Company Act or not.

2. Uniform Commercial Real Estate Receivership Act

The Uniform Commercial Real Estate Receivership Act brings uniformity and consistency to all Connecticut courts and provides a statutory remedy for persons to collect on a mortgage or debt secured by commercial real estate. Receivership is an equitable remedy allowing a court to oversee the orderly management and disposition of property subject to a lawsuit. Although the remedy is not new, there is no standard set of receivership rules and courts of different states have applied widely varying standards. This Uniform Commercial Real Estate Receivership Act (UCRERA) applies to receiverships involving commercial real estate, and provides a standard set of rules for courts to apply. The Act will result in greater predictability for litigants, lenders, and other parties doing business with a company subject to receivership. The bill was raised by the Judiciary Committee at its February 10, 2020 meeting, and has been drafted and filed as H.B. 5258 (2020).

B. Committees of the General Assembly voted to draft the following uniform acts during the regular legislative session beginning February, 2020. The Connecticut Commissioners support consideration of these acts to the extent permitted given the extended closure of the Legislative Office Building and Capitol Building beginning on March 11, 2020, to mitigate the spread of the COVID-19 virus.

1. An Act Concerning Adoption and Implementation of the Connecticut Parentage Act, HB 5178, was raised by the Judiciary Committee on February 19, 2020, and received a public hearing on March 6, 2020. The text of the bill varies from the uniform act adopted by the ULC, but is based in large part on the uniform act.

2. An Act Adopting the Revised Uniform Law on Notarial Acts, HB 5325, was raised by the Commerce Committee on February 13, 2020, and received a public hearing on March 10, 2020.

3. An Act Concerning the Adoption of the Uniform Real Property Transfer on Death Act. This act was raised by two committees. The Aging Committee raised the bill on February 18, 2020, and the Judiciary Committee raised the bill on February 21, 2020.

The Aging Committee held a public hearing on H.B. 5209 on February 27, 2020, and reported the bill to the Judiciary Committee on March 4, 2020.

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