

# **COLORADO COMMISSION ON UNIFORM STATE LAWS**

## **REPORT - JANUARY 2014**

### **I. PREAMBLE**

To the Honorable Governor, John Hickenlooper; the Chief Justice of the Colorado Supreme Court, Michael L. Bender; the Chief Judge of the Colorado Court of Appeals, Alan Loeb; the President Pro Tempore of the Senate, Lucia Guzman; the Speaker of the House of Representatives, Mark Ferrandino; and the members of the Colorado General Assembly. The Colorado Commission on Uniform State Laws respectfully submits this Annual Report.

### **II. HISTORY OF THE NATIONAL CONFERENCE (ULC)**

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 first National Conference of Commissioners on Uniform State Laws (ULC) 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 U.S. 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 National Conference 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 National Conference 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 fourteen 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 National Conference of Commissioners on Uniform State Laws 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 NCCUSL (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**, Private Law Practice  
Drafting Committee on Manufactured Housing Act

**Stanley C. Kent**, Private Law Practice  
Drafting Committee on Fiduciary Access to Digital Assets  
Standby Committee on Powers of Appointment  
Standby Committee on Premarital and Marital Agreements  
Drafting Committee on Trust Decanting  
Enactment Committee for Uniform Principal and Income Act  
Amendments

**Claire B. Levy**, Executive Director, Colorado Center on Law and Policy  
Standby Committee on Military and Overseas Voters Act  
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 Appointment and Powers of Real Estate Receivers  
Drafting Committee to amend Uniform Athlete Agents Act

**Anne L. McGihon**, Private Law Practice  
Amending Uniform Athlete Agents Act  
Enforcement of Child Custody and Child Support Orders  
Wage Garnishment Act

**Thomas Morris**, Senior Attorney, Office of Legislative Legal Services  
Secretary of the Colorado Commission on Uniform State Laws  
Committee of Legislative Attorneys

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

**Brandon Shaffer**, Vice Chairperson, Colorado Parole Board  
Legislative Liaison

- C. Colorado Commissioners attending the ULC Annual Meeting held on July 6-12, 2013, were:

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

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

The following are summaries of new acts adopted in final form by the Conference at the most recent ULC Annual Meeting:

### **The Uniform Act on Prevention of and Remedies for Human Trafficking**

The Uniform Act on Prevention of and Remedies for Human Trafficking is a comprehensive new law directed against human trafficking. Human trafficking – a form of modern day slavery – is a global concern that affects the United States on federal, state, and local levels. The federal Trafficking Victims Protection Act of 2000 identifies two primary forms of human trafficking: sex trafficking and labor trafficking. The Uniform Act provides the three components necessary for ending human trafficking: comprehensive criminal provisions; provisions for victim services; and the establishment of a coordinating body to help government and non-government organizations coordinate their human trafficking activities. A comprehensive uniform act will enable federal, state, and local agencies to better identify victims, provide needed services, and facilitate prosecution.

### **The Uniform Powers of Appointment Act**

The Uniform Powers of Appointment Act codifies the law of powers of appointment. A power of appointment is the authority, acting in a nonfiduciary capacity, to designate recipients of beneficial ownership interests in, or powers of appointment over, the appointive property. An owner, of course, has this authority with respect to the owner's property. By creating a power of appointment, the owner typically confers this authority on someone else. The power of appointment is a staple of modern estate-planning practice.

### **The Uniform Harmonized Business Organization Code**

The Uniform Harmonized Business Organization Code (UHBOC) harmonizes, to the extent possible, the language in the ULC's business entity acts (including the Model

Entity Transactions Act, Uniform Partnership Act, Uniform Limited Partnership Act, Uniform Limited Liability Company Act, Uniform Statutory Trust Entity Act, Uniform Limited Cooperative Associations Act, Uniform Unincorporated Nonprofit Association Act, and the Model Registered Agents Act) so that the language in the provisions that are common in one or more of the acts are identical. Amendments to the UHBOC were approved in 2013 to address some technical corrections which need to be made since the act's promulgation in 2011.

#### **Amendments to the Uniform Child Custody Jurisdiction and Enforcement Act Pertaining to International Proceedings**

Amendments to the Uniform Child Custody Jurisdiction and Enforcement Act Pertaining to International Proceedings were also approved at the ULC's annual meeting. These amendments to the UCCJEA were drafted as part of the effort to implement the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement, and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children.

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

The Colorado Commissioners met with representatives of the Colorado Bar Association in September and December of 2013 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 2014 regular session: Uniform Act on Prevention of and Remedies for Human Trafficking, Uniform Powers of Appointment Act, and Uniform Trust Code.

## **VII. ENACTMENT RECORD, TO DATE**

Colorado has an enviable record for enacting Uniform Acts. One hundred and five 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)  
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)