

**UNIFORM LAW COMMISSION**  
BETTER LAWS. STRONGER STATES.



**ANNUAL REPORT**  
**2016/2017**



# The Uniform Law Commission

The Uniform Law Commission (ULC), now 125 years old, promotes uniformity of law among the several states on subjects for which uniformity is desirable and practicable. The ULC improves the law by providing states with non-partisan, carefully-considered, and well-drafted legislation that brings clarity and stability to critical areas of the law. The ULC's work supports the federal system, seeks to maintain an appropriate balance between federal and state law, and facilitates the movement of individuals and the business of organization with rules that are consistent from state to state.

Uniform Law Commissioners must be lawyers, qualified to practice law. Commissioners are lawyer-legislators, attorneys in private practice, state and federal judges, law professors, and legislative staff attorneys, who have been appointed by state governments as well as the District of Columbia, Puerto Rico, and the U.S. Virgin Islands to research, draft and promote enactment of uniform state laws in areas where uniformity is desirable and practical.

## Officers and Executive Committee

### Officers 2016-2017

Richard T. Cassidy, President  
Melissa Hortman, Vice President  
Daniel Robbins, Secretary  
Thomas J. Buiteweg, Treasurer  
Harriet Lansing, Immediate Past President  
Anita Ramasastry, Chair, Executive Committee  
Carl H. Lisman, Chair, Scope and Program Committee  
Ryan Leonard, Chair, Legislative Committee

### Appointed Members of Executive Committee

Anita Ramasastry, Chair  
Timothy Berg  
William H. Henning  
Rodney W. Satterwhite

### Executive Director

Liza Karsai

Uniform Law Commission  
111 N. Wabash Ave., Ste. 1010  
Chicago, IL 60602  
312.450.6600  
[www.uniformlaws.org](http://www.uniformlaws.org)

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# PRESIDENT'S MESSAGE

## LOOKING BACK...



### Richard T. Cassidy

#### ULC President 2015-2017

For two years, I was blessed with the opportunity to serve the Uniform Law Commission as President. It was a privilege and an honor for which I am deeply grateful.

This annual report highlights the ULC's important work of the past year, which I won't restate here. Instead, I'd like to highlight some new undertakings which will likely inform the work of the ULC for many years to come.

In an effort to encourage diversity among our membership, I appointed a new special committee on Diversity and Inclusion and charged it with broadly examining our current policies and practices in order to assess whether changes would be appropriate to encourage and facilitate greater diversity in the composition of our membership. Although the ULC does not have a role in the appointment of its members, it can and should create a welcoming environment to encourage and support the active and continued participation of lawyers with the full spectrum of race and ethnicity, age, physical abilities, gender, sexual orientation and identity, national origin, economic status, and religious, ideological, geographic, and professional background and experience.

The failure of some states to pay their dues, or reimburse their commissioners for their expenses, is a recurring problem. To address it, I appointed a State Dues Committee to work with the Legislative Council to provide support for state delegations to improve state support.

A committee was established on Criminal Justice Reform, to help fill a needed void in the ULC's expertise in this area. The committee is actively considering what role the ULC can play in promoting criminal justice reform at a time when states are exploring alternatives to bail, alternatives to juvenile sentencing, and beyond.

A new Committee on Technology was established, which serves as a review board to vet the growing number of proposals focused on technology law and policy. With the Technology Committee's input, we have launched numerous projects addressing the impact of technology on a wide variety of topics, from virtual currency to drones, to highly automated vehicles, to the unauthorized disclosure of intimate images.

These are just a very few of the initiatives of which I am most proud.

It was a memorable two years, but now my years as President of the Uniform Law Commission are over. We have done great work together. I am proud of it, and proud of you.

It was an extraordinary experience. Not many lawyers have the opportunity to lead a group that is as able, as distinguished, and as hardworking, as this one.

And there is no group that I know that demonstrates more good faith and good will. Your commitment to the mission of the Uniform Law Commission, and the friendships that bind us one to another, are simply unmatched.

Without doubt, serving as your President has been the highlight of my professional career. It has been hard work, but it has been deeply satisfying and the experience has been unequalled.

I was delighted to turn over the helm to our new President, Anita Ramasastry, and our new officers. I have every confidence in them and their abilities.

Last, but hardly least, I am grateful for the support and the good will of each and every member of this Commission. You honored me by allowing me to serve as your President, and I shall never forget it.

Thank you all.

A handwritten signature in black ink, appearing to read "Richard T. Cassidy". The signature is fluid and cursive, with a large initial "R" and "C".

# PRESIDENT'S MESSAGE

## LOOKING AHEAD...



### Anita Ramasastry

#### ULC President 2017-2019

Thank you for this opportunity to serve as the Uniform Law Commission's next President. I have the deepest respect and admiration for this organization – its tradition and its mission – and I will serve to the best of my ability.

I'm grateful for the sage advice of past presidents who continue to serve as active leaders in the ULC. But I am most grateful for Rich Cassidy, my predecessor as President.

Rich worked tirelessly on behalf of the ULC, and I think we will reflect on his presidency and see that he took us light years forward in just the past two years in terms of addressing challenges that were difficult, but that brought about much needed changes.

His support of criminal justice reform, and his staunch belief in a fairer criminal justice system, was evidenced by the creation of the Criminal Justice Reform Committee, the drafting of the Criminal Records Accuracy Act, as well as his efforts to champion the Uniform Collateral Consequences of Conviction Act.

Under Rich's leadership, the ULC created a much-needed Technology Committee, which has served to examine how technology impacts society and the law. This has led to new and innovative drafting projects focused on subjects such as virtual currency and highly automated vehicles. His insistence on diversity and inclusion of ULC's membership and in our work from diverse geographies, professions, and beyond speaks of his desire for us to have our work reflect a broad range of ideas. His prudent approach to sound finances and a well-managed budget will benefit the Commission for years to come.

Rich's love of the ULC is apparent in his dedication and his work on behalf of this great organization. He has been a wonderful mentor and president.

The primary focus of my work as President relates to my own vision of strengthening our core and retaining our relevance, a delicate balance. The ULC faces new challenges as it tries to produce excellent laws that are relevant, timely, and enactable in this very rapidly changing world. In the past few years, we have engaged in excellent work focused on different aspects of our uniform law process, from the work examining our Scope and Program process to our work on strengthening state delegations. I will continue to implement these efforts, but I have also asked a small group of commissioners to engage in broader strategic planning regarding the future of our organization for the next three to five years. I have charged a special committee on growth and innovation to develop a larger plan that looks at our prior recommendations and looks ahead at our current fiscal situation as well as the world around us, and to make recommendations to our Executive Committee.

We have started to use technology more, to convene meetings as a supplement to our invaluable drafting committee meetings. How we leverage technology for the benefit of the commission is a key issue that our strategic planning group will explore. Similarly, we will examine how we can make better use of our monitoring committees, that look at trends in areas such as civil litigation, health law, technology and criminal justice, to ensure that we rapidly identify areas where state law can play a vital role.

I also realize that we need to give the area of foundation support for our work more serious attention. I have appointed a special committee to develop a longer-term plan for foundation partnerships. We are also exploring how we might better partner with universities to ensure that the best thinking and research informs our legislative drafting.

I have tasked a work group to examine our current conflict of interest policy and to examine ways in which we might revise the policy or develop useful guidance for our commissioners on ethics and conflicts of interest relating to our work as commissioners, as well as our work in our own capacity.

I'm pleased to continue to support our efforts to ensure the relevance of state law and state voices in our international efforts. For example, we continue to engage in partnerships to harmonize our laws with Canada and other common law countries.

Thank you for allowing me to help lead you these next two years as we work together on these important issues. It is a privilege and honor to serve as President of this illustrious organization. I remain grateful for this opportunity to serve and to work with all the members of the Uniform Law Commission.

A handwritten signature in black ink that reads "Anita Ramasastry".



# Legislative Report

The Uniform Law Commission is a unique institution created by state governments – and funded by state appropriations – to research, draft, and present to the states for enactment, uniform and model laws on subjects where uniformity of the law is useful or necessary.

However, the work of the ULC doesn't end there. What makes the ULC so unique is that it not only studies and drafts legislative solutions to significant problems affecting the states, it then works to make those acts the law in the states. No uniform law is effective until a state legislature adopts it. To that end, Uniform Law Commissioners work toward enactment of ULC acts in their home jurisdictions.

The 2017 legislative year ended with 87 enactments and 198 introductions. Some of the major highlights from the year include:

## Revised Uniform Athlete Agents Act

The Revised Uniform Athlete Agents Act, approved by the ULC in 2015, was introduced in 11 states this year, and enacted in five states, bringing its total number of enactments to eight.

The Revised Act (RUAAA) is an update of the Uniform Athlete Agents Act of 2000, which was enacted in 42 states. The 2000 Act governs relations among student athletes, athlete agents, and educational institutions, protecting the interests of student athletes and academic institutions by regulating the activities of athlete agents. The RUAAA provides enhanced protection for student athletes and educational institutions, and simplifies the regulatory environment faced by legitimate athlete agents.

RUAAA updates the original act in numerous ways, including:

- expands the definition of “athlete agent” to include an individual who, for compensation or the anticipation of compensation, serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or manages the business affairs of the athlete by helping with bills, payments, contracts, or taxes.
- adds new requirements to the signing of an agency contract by requiring that an agency contract include a statement that the athlete agent is registered as an athlete agent in this state, and requires the agent to list any other state in which the agent is a registered athlete agent.
- expands notification requirements relative to an athlete agent providing notice to a student's educational institution and athletic director prior to initiating contact with a student athlete and giving notice regarding an agency contract.
- provides for reciprocal registration between states to allow for more efficient registration.

The RUAAA provides important protections to student athletes and educational institutions through the regulation of athlete agent activities.

## Revised Uniform Fiduciary Access to Digital Assets Act

The Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA), approved by the ULC in 2015, was enacted in 17 states in 2017, bringing its total number of enactments to 37. In the Internet age, the nature of property and our methods of communication have changed dramatically. For most people today, at least some of their property and communications are stored as data on a computer server and accessed via the Internet.

Collectively, a person's digital property and electronic communications are referred to as "digital assets" and the companies that store those assets on their servers are called "custodians." Access to digital assets is usually governed by a terms-of-service agreement provided by the custodian. This creates problems when account holders die or otherwise lose the ability to manage their own digital assets.

RUFADAA provides legal authority for fiduciaries to manage digital assets in accordance with the user's estate plan, while protecting a user's private communications from unwarranted disclosure. The Uniform Act covers four common types of fiduciaries: executors or administrators of deceased persons' estates; court-appointed guardians or conservators of deceased persons' estates; agents appointed under powers of attorney; and trustees.

RUFADAA allows users to specify whether their digital assets should be preserved, distributed to heirs, or destroyed. Unless the user consented in a will, trust or other record, a fiduciary will not have access to the content of electronic communication, including emails, photos, or documents stored in a cloud service.

## Revised Uniform Unclaimed Property Act

The Revised Uniform Unclaimed Property Act, approved in 2016, was introduced in seven states in 2017, and enacted in two: Tennessee and Utah.

The ULC first approved a uniform act on unclaimed property in 1954. Since then, the act has been revised in 1966, 1981, and 1995. The unclaimed property laws of most states are based in whole or in part on one of the multiple versions of the Uniform Act.

The ULC once again revised the act, approving the Revised Uniform Unclaimed Property Act in 2016. The Revised Act provides necessary updates that keep up with technological innovation and that recognizes new forms of property not included in prior versions of the Act.

Like its predecessors, the Revised Act provides rules for determining when property is actually abandoned, and when it is, for determining which state gets it. The Revised Act updates provisions on numerous issues, including escheat of gift cards and other stored-value cards, life insurance benefits, securities, dormancy periods, and use of contract auditors.

## Uniform Voidable Transactions Act (formerly the Uniform Fraudulent Transfer Act)

The Uniform Voidable Transactions Act (UVTA) strengthens creditor protections by providing remedies for certain transactions by a debtor that are unfair to the debtor's creditors. For example, the UVTA provides a remedy to a creditor whose debtor transfers property to a relative or third party to keep the property away from the creditor's reach.

The 2014 Amendments to UVTA update the existing Uniform Fraudulent Transfer Act in a number of key ways, including: changing the title of the act to "Uniform Voidable Transactions Act" to provide a more accurate description of what the act does; adding a clear choice-of-law provision that offers predictability and reduces costs; adding improved provisions for determining a debtor's insolvency; and providing guidance to courts and litigants by setting out the burden of proof of each party in a UVTA lawsuit.

The UVTA 2014 Amendments were enacted in six states in 2017, bringing its total number of enactments to 15.

## UCC Update

Of note in 2017 was Missouri's enactment of both UCC Article 1 and UCC Article 7. UCC1, the general provisions section of the UCC, was updated and amended to harmonize with recent revisions of the UCC. It has now been enacted in every state, the District of Columbia, and the U.S. Virgin Islands.

UCC7, the article dealing with documents of title, has now been enacted in every state and the District of Columbia. The purpose of the revised UCC7 is twofold: to provide a framework for the further development of electronic documents of title and to update the article for modern times. To the extent possible, the rules for electronic documents of title are the same or as similar as possible to the rules for tangible documents of title.

In addition to these acts, more than 30 different uniform acts were adopted in various states across the country.



## New Uniform Acts Approved in 2017

The culmination of the work of the Uniform Law Commission takes place at its annual meeting each summer, when the Commission convenes as a Committee of the Whole. At its 126th Annual Meeting in San Diego, California, July 14-20, 2017, six new uniform or model acts were considered and approved. After receiving the ULC's seal of approval, a uniform or model act is official promulgated for consideration by the states, and state legislatures are urged to adopt it.

### **Uniform Regulation of Virtual-Currency Businesses Act**

The Uniform Regulation of Virtual-Currency Businesses Act (URVCBA) provides a statutory framework for regulating virtual currency business activity, which includes businesses engaged in the exchange of virtual currencies for cash, bank deposits, or other virtual currencies; the transfer of virtual currency between customers; and certain custodial or fiduciary services.

The URVCBA is unique because it offers a three-tiered structure. Tier one represents persons that are exempt from regulation under the Act. Tier two is for providers that must register with the state. The registration tier is for providers with virtual currency business activity levels between \$5,000 and \$35,000 annually. The registration tier functions as a "regulatory sandbox" because it allows companies to focus on innovation and experimentation while they are in the early stage of business development. Tier three, the full licensure tier, is for companies with virtual currency business activity levels greater than \$35,000 annually.

By clearly defining the regulatory framework in which virtual currency businesses must operate, the Act removes uncertainty as to the rules and standards applied to such companies and fosters the development of new products and services in the emerging financial services industry.

### **Model Veterans Treatment Court Act/Rules**

The Model Veterans Treatment Court Act and Rules establish guidelines for veterans' courts while permitting substantial local discretion necessary to accommodate particular circumstances in different communities. The Act acknowledges that veterans and service members share a culture that, when coupled with the rehabilitation process found in a traditional drug or mental health treatment court, can significantly enhance their successful recovery and reintegration into the community. The Act provides a chance of rehabilitation for veterans who have made substantial sacrifices to protect and serve their society and communities, by providing an opportunity to divert from the standard criminal docket.

This legislation has been drafted in two alternative ways to allow it to be enacted by state statute or, in the alternative, as court rules. The Act allows a veteran to participate in a veterans' treatment court regardless of the character of his or her discharge from service, allowing judges and prosecutors the widest latitude possible to decide whether a defendant's situation and the court's available treatment resources would make participation in a veterans' treatment court successful.

The Act provides that participation in the veterans' treatment program requires approval of the prosecutor, but expressly reserves to the court all power regarding punishment including probation, conditions of probation, and consequences of violation of terms of participation in the treatment program. The Act gives special attention to victims of domestic violence, recognizing that rights of victims of crimes may vary from state to state.

## Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act

The first uniform law on guardianship was released in 1969 as Article V of the Uniform Probate Code. Guardianship law has advanced dramatically since 1969 to better protect the rights and interests of persons legally determined to need help caring for themselves. The ULC has encouraged the trend toward greater independence for persons under guardianship by revising its guardianship act three times in 1982, 1997, and most recently with the approval of the newly renamed Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGCOPAA).

This new version is a modern guardianship statute that better protects the individual rights of both minors and adults subject to a guardianship or conservatorship order. UGCOPAA modernizes the law and protects the rights of individuals who are subject to guardianship and conservatorship. It encourages courts to impose the least-restrictive orders possible to adequately protect vulnerable minors and adults, and to monitor the protective arrangement to continuously adapt to an individual's changing capabilities and needs. It imposes clear duties upon guardians and conservators charged with protecting others and requires regular monitoring to ensure compliance. It allows courts to address specific problems with limited orders and preserve individual rights when possible.

## Uniform Parentage Act (2017)

The Uniform Parentage Act (2017) provides states with rules for determining parentage of a child. UPA (2017) updates prior versions of the UPA, last revised in 2002. The UPA covered several topics, including: the parent-child relationship; voluntary acknowledgments of paternity; registry of paternity; genetic testing; proceedings to adjudicate parentage of children of assisted reproduction.

The UPA (2017) makes five major changes to the UPA. First, the Act seeks to ensure the equal treatment of children born to same-sex couples. Second, the Act includes a provision for the establishment of a de facto parent as a legal parent of a child. Third, it includes a provision that precludes establishment of a parent-child relationship by the perpetrator of a sexual assault that resulted in the conception of the child. Fourth, it updates the surrogacy provisions to reflect developments in that area, making them more consistent with current surrogacy practice and recently adopted statutes in several states.

Finally, UPA (2017) includes a new article that addresses the right of children born through assisted reproductive technology to access medical and identifying information regarding any gamete providers.

## 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." This division of authority between a trust director and a trustee raises a host of difficult questions for which the UDTA provides clear, practical answers.

In a traditional trust, the responsibility for all aspects of the trust's administration - including custody, investment, and distribution - belongs to the trustee. In a directed trust, however, this may be modified by a grant of power over some aspect of trust administration to a trust director. The rise of directed trusts raises numerous unsettled questions of law.

The purpose of the UDTA is to address this issue. The UDTA expressly validates terms of a trust that provide for a trust director and prescribes a simple set of rules for directed trusts. The UDTA's basic strategy for allocating fiduciary duty is to impose primary fiduciary responsibility for a trust director's actions on the director, while preserving a minimum core of duty in a trustee. A trust director has the same fiduciary duties as a trustee would have in a like position and under similar circumstances, but a trustee that acts subject to a trust director's direction is generally liable only for the trustee's own willful misconduct. The UDTA authorizes a similar allocation of power and duty among co-trustees.

## Uniform Protected Series Act

In response to the growing popularity of series limited liability companies in the United States, the ULC promulgated the Uniform Protected Series Act (UPSA). The UPSA is drafted as a "module" to be inserted into the enacting state's existing LLC act and may be adopted whether or not the state's LLC statute is based on the Uniform Limited Liability Company 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.

## Spotlight On:

# The Uniform Regulation of Virtual-Currency Businesses Act

The Uniform Regulation of Virtual-Currency Businesses Act (URVCBA), approved by the ULC in 2017, provides a statutory framework for the regulation of companies engaging in “virtual currency business activity.” Virtual currency business activity includes businesses engaged in the exchange of virtual currencies for cash, bank deposits, or other virtual currencies; the transfer of virtual currency between customers; and certain custodial or fiduciary services.

### What is virtual currency?

“Virtual currency” is intangible. Its manifestation is in a lengthy Internet address that includes both a “public key” (an identifier that enables more than one person to use it) and a “private key” (the identifier that only the person with control of it or to whom the private key has been entrusted can use). To transfer virtual currency, one normally needs to have both keys. Under the URVCBA, “virtual currency” is a digital representation of value that is used as a medium of exchange, unit of account, or store of value and is not legal tender. This technology-neutral definition encompasses as many types of virtual currency as possible. The definition excludes merchants’ rewards programs or equivalent types of values on online game platforms.

The value of virtual currency is a function of what the market will bear, not a value set by a government or determined by an intergovernmental or international organization. Thus, virtual currencies are capable of fluctuations in value more like commodities.



Virtual currencies currently are in one of two forms: they either emanate from a centralized issuer or they result from the work of a person (a “miner”) solving a puzzle with “virtual currency” being issued as a reward for the work expended. Virtual currency issued by one issuer is known as “centralized” and when issued as a reward is known as “decentralized.” Bitcoin operates as a decentralized system, for example. In the Bitcoin system, “miners” also perform transaction verification and validation functions, maintain the integrity of a record system called the “public ledger” and record transfers on that public ledger (also called a “blockchain”).

Licensees must meet certain capital requirements, maintain appropriate records, implement required compliance policies and are subject to audit by the states. An application for a license under the URVCBA must include information such as: (1) a description of the applicant’s current business; (2) a description of the applicant’s business for the previous five years; (3) a list of the money transmission licenses the applicant holds in other states; and (4) lawsuit and bankruptcy history of the applicant and the applicant’s executive officers.



### **What are the benefits of the Uniform Act?**

The URVCBA is unique because it offers a three-tiered structure. Tier one represents persons that are exempt from regulation under the Act. Tier two is for providers that must register with the state. The registration tier is for providers with virtual currency business activity levels between \$5,000 and \$35,000 annually. The registration tier functions as a “regulatory sandbox” because it allows companies to focus on innovation and experimentation while they are in the early stage of business development. Businesses in the registration tier may operate as registrants for up to two years, so long as they remain under the \$35,000 threshold. Tier three, the full licensure tier, is for companies with virtual currency business activity levels greater than \$35,000 annually.

The Uniform Regulation of Virtual-Currency Businesses Act offers states the opportunity to enact legislation that can lead to a seamless, single-business model form of operation for emerging virtual currency businesses. This is suitable for businesses that operate exclusively via the Internet and do not have brick-and-mortar locations across the nation, as most money transmitters have. It also offers the potential to bring new businesses to the states and to enhance licensure and supervision of these new businesses that hold valuable financial assets on behalf of others.

### **Other key features of the URVCBA include:**

- An exemption for a person using a virtual currency solely on its own behalf, or for personal, family, household or academic purposes.
- An exemption for entities that provide data storage, security services, connectivity software, or computing power, and for entities that provide enterprise solutions to other exempt entities.
- Additional exemptions from coverage for other providers, such as banks and credit unions, which are already regulated by the state or federal government, or both.
- Protection of virtual currency belonging to consumers but under the control of a virtual currency business from claims of the creditors of the licensee registrant.
- A system that allows a virtual currency business that is licensed in one state under the Act to obtain a reciprocal license in other states that have adopted the Uniform Act.

By clearly defining the regulatory framework in which virtual currency businesses must operate, the Uniform Act removes uncertainty as to the rules and standards applied to such companies and fosters the development of new products and services in the emerging financial services industry.

# Financing the ULC



## Financial Support and Budget

As a state service organization, the Uniform Law Commission depends upon state appropriations for its continued operation. The ULC receives the predominant portion of its financial support from these state appropriations. Every state, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands is assessed a specific amount for dues, varying depending on the state's population, for support of the ULC. All jurisdictions are also requested to reimburse the expenses of their commissioners incurred in attending the annual meeting. In return, the ULC provides the states with significant services, including both drafting uniform, well-researched, and well-crafted state laws on a range of legal subjects, and supporting the effort to enact these laws.

The ULC enables states to tap the skills and resources of the legal profession for very little cost. No uniform law commissioner is paid for his or her services. Commissioners receive reimbursement only for actual expenses directly incurred in the course of their work with the ULC. The ULC estimates that each commissioner devotes an average 150 hours a year to ULC work, including service on various drafting committees and participation at the ULC Annual Meeting. These hours spent in research and drafting work – solid, substantive hours—have a cumulative value of more than \$10 million.

States would find it both difficult and expensive to replicate the work of the ULC on their own, especially with regard to highly complex subjects, such as commercial law or the law of probate and estates. Every Uniform or Model Act the ULC promulgates is developed over the course of two to three years at intensive weekend meetings. Each Act is read and debated on the floor of two ULC Annual Meetings by all the assembled commissioners sitting as a Committee of the Whole.

Because ULC drafting projects are national in scope, the ULC attracts a broad range of advisors and observers, resulting in a drafting process that benefits from a greater range and depth of national, legal expertise than could be brought to bear by any individual state. In addition, the ULC contracts professional 'reporters'— typically, law professors with significant expertise,

but on appropriate occasions experienced practitioners are appointed as well — to aid in many of the drafting efforts. Reporters receive modest honoraria to support the research and drafting of ULC acts.

The budget of the ULC for the fiscal year ending June 30, 2017, was approximately \$3,904,000, with support from state governments in the total amount of \$2,311,000 accounting for 59.2% of the budget.

Grants from foundations and the federal government occasionally support specific educational and drafting efforts. All money received from any source is accepted with the understanding that the ULC's drafting work is completely autonomous. No source may dictate the contents of any Act because of a financial contribution. By seeking grants for specific projects, the ULC expands the value of every state dollar invested in its work.

The Uniform Commercial Code (UCC) is a joint venture between the ULC and the American Law Institute (ALI). In the 1940s, the Falk Foundation supported the UCC's original development. Proceeds from copyright licensing of UCC materials replenish the original funds. Whenever work on the UCC commences, a percentage of ULC and ALI costs are paid from endowment income.

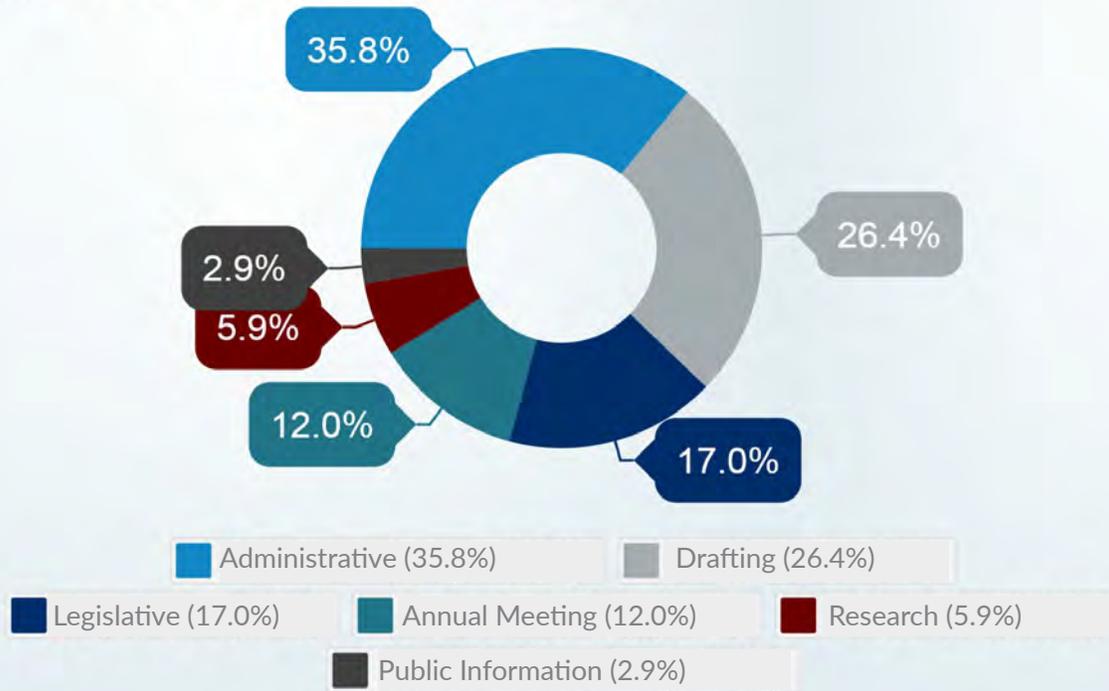
The Commission has also established royalty agreements with major legal publishers that reprint the ULC's uniform and model acts in their publications.

The ULC has a very small staff, which keeps its operating costs as low as possible. The full-time staff of 14 (when fully staffed), located in Chicago, provides all the staff support for the administrative, drafting, and legislative efforts.

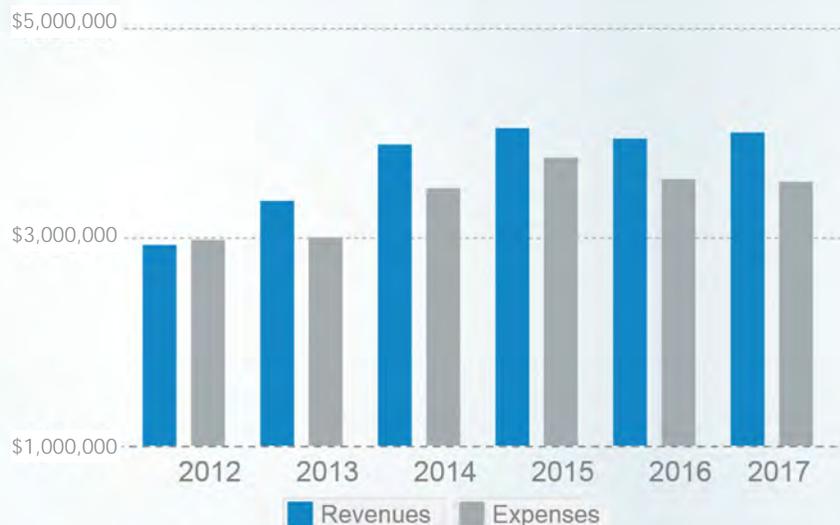
Particularly in today's economic climate, as states across the country continue to struggle with their budgets, the process of drafting a uniform law remains an immensely cost-effective endeavor.

# FINANCIAL REPORT

## Budget for Fiscal Year 2017



## Revenues and Expenses





# Current ULC Committees

## Drafting Committees

Uniform Law Commission drafting committees consist of a chair, several ULC commissioners from various states, and a reporter (usually a law professor with expertise in the subject matter). The ULC seeks to have one or more ABA advisors appointed to every drafting committee. Other interested groups are also invited to send representatives, known as observers.

ULC drafting committees typically meet two or three times a year for at least two years. Drafting committee meetings are open to the public and full participation in the discussion is encouraged. All drafts are posted on the ULC's website ([www.uniformlaws.org](http://www.uniformlaws.org)) which enables public review and comment.

Currently, 15 drafting committees are working on new and revised uniform and model acts. Proposed acts are subject to rigorous examination and debate at ULC annual meetings before they become eligible for designation as Uniform Law Commission products.

The final decision on whether an act is ready for promulgation to the states is made near the close of an annual meeting, on a vote-by-states basis, with an affirmative vote of 20 or more states necessary for final approval.

The current drafting committees are:

### **Drafting Committee to Draft Article 8 Companion Act to the Uniform Regulation of Virtual-Currency Businesses Act**

This committee will draft a UCC Article 8 related statute as a companion act to the Uniform Regulation of Virtual Currency Businesses Act based on the current Section 502 of the Act.

### **Drafting Committee on Amendments to UCC Articles 1, 3, and 9**

A joint Committee comprised of members of the Uniform Law Commission and the American Law Institute will draft revisions to Articles 1, 3, and 9 of the Uniform Commercial Code to provide the substantive commercial law rules to support an electronic registry for residential mortgage notes on a national basis with minimal displacement of state laws. Article 3 rules were developed for a paper-based commercial practice in which residential mortgage notes normally are held in portfolio by the lending bank. The committee will amend Article 3 to accommodate electronic documentation practices in commercial mortgage transactions. Further, the committee will undertake amendments to Article 9 provisions governing the granting and perfection of security interests in electronic mortgage notes held as collateral; the way security interests attach; priorities; and possession; as well as the transfer of ownership notes and the transfer of rights in the mortgage securing electronic mortgage notes. Finally, the committee will consider amendments to key definitions in Article 1 to ensure consistency with amendments to Articles 3 and 9.

### **Drafting Committee on Highly Automated Vehicles Act**

Autonomous vehicle technology is rapidly maturing, and that technology (or driverless cars) will soon be ready to test nationwide. At this time, 21 states have passed legislation related to autonomous vehicles, and the National Highway Transportation Safety Administration (NHTSA) has issued guidelines for states that may seek to regulate driverless cars. This committee has drafted an outline for a model law or uniform act addressing definitions and scope, and will now begin to draft a model law or uniform act governing these aspects of highly automated vehicles.

## **Drafting Committee on Electronic Wills Act**

This committee will draft a uniform act or model law addressing the formation, validity and recognition of electronic wills. The committee may seek expansion of its charge to address end-of-life planning documents such as advance medical directives or powers of attorney for health care or finance.

## **Drafting Committee on Criminal Records Accuracy Act**

Many developments concerning criminal records have occurred over the past twenty years, including the creation of the National Criminal Background Check System in 1993, the establishment of criminal history repositories in all states, and the increasing use of criminal record checks in connection with eligibility for employment, professional and occupational licenses, credit worthiness, and other non-criminal justice purposes. Recent studies have demonstrated that criminal records accessed for these purposes may be inaccurate or incomplete. Some of the causes of inaccuracy or incompleteness are: lack of information on dispositions after an arrest or other charge has been entered in a database; data entry errors resulting, e.g., in an incorrect listing of the offense, or multiple listings of the same offense, or attribution of an offense to a wrong individual; criminal identity theft (when an arrested person gives another person's identifying information); and searches for criminal record information resulting in one person's criminal record information appearing in search results initiated for a different individual. This drafting committee will draft an act that seeks to improve the accuracy of criminal records.

## **Drafting Committee on Electronic Registry for Residential Mortgage Notes Act**

The development of securitization as a common practice with regard to residential mortgage notes has created the need for a more efficient and less costly means than the current paper-based rules of UCC Article 3 to identify who is entitled to enforce a residential mortgage note and how the debt evidenced by the note is transferred. A more efficient system will benefit not only those engaged in the secondary mortgage market, but also note obligors who will have a clear, certain and easily accessible way to determine who is the person entitled to enforce their obligation, and thus the person with whom they must deal with regard to enforcement related issues such as payoff and loan modification. Given the importance of the secondary mortgage market to the availability of capital for residential mortgage loans, a more efficient system is likely to benefit home buyers seeking residential mortgage loans as well. The drafting committee will, if necessary, develop a uniform electronic registry for residential mortgage notes that will be national in its effect, taking into account the appropriate relationship between the registry and other law.

## **Drafting Committee on Anti-SLAPP Legislation**

This committee will draft an Anti-SLAPP Act. The acronym SLAPP stands for Strategic Lawsuit Against Public Participation, meaning a lawsuit of dubious merit brought for the purposes of silencing, intimidating, or retaliating against a defendant who has done nothing more than exercise their lawful rights to free speech and freedom to petition or similar rights. Anti-SLAPP laws seek to protect such rights by allowing such a defendant to make a motion at the outset of the litigation for an expedited review by the Court, with the burden shifted to the plaintiff to show that the lawsuit is meritorious and that the plaintiff will likely prevail at trial. The drafting committee will address the breadth of the act; limitations, if any, to be imposed after a motion to strike is made; the standard of review relating to the motion to strike; appeal rights from the grant or denial of a motion to strike; and whether the court should award attorney's fees and costs.

## **Drafting Committee on Fiduciary Income and Principal Act**

The Uniform Principal and Income Act sets out uniform accounting rules for trusts. It originally dates to 1931, and has been revised twice since, most recently in 1997. In addition, two amendments were approved in 2008 to deal with specific tax rulings. Because of this history, the act is an amalgam of accounting rules and standards, some of which are outdated. While earlier trusts often had clear delineation between income and principal interests, modern trust accounting requires flexibility. Trustees now tend to invest for the greatest total return, and then adjust between interest and principal to produce a fair result for all the beneficiaries. The revised act recognizes this trend toward total-return investing, and will include a unitrust conversion provision that the 1997 act did not, but which has since proved to be popular in the states. The committee is rethinking the entire act in light of current accounting practices and tax rulings, and hopes to produce a simpler, more flexible, and more understandable act.

## **Drafting Committee on Nonparental Child Custody and Visitation Act**

State legislation and judicial decisions vary greatly concerning the rights of third parties who are not parents (such as grandparents, stepparents, domestic partners, and siblings) to rights of custody of or visitation with a child. Those rights are also affected by the United States Supreme Court's decision in *Troxel v. Granville*, 530 U.S. 57 (2000), which held that courts must give deference to decisions of fit parents concerning the raising of children, including concerning grandparents' visitation rights. This drafting committee will draft an act concerning the rights of third parties other than parents to custody of or visitation with a child.

### **Drafting Committee on Registration of Foreign Judgments to Harmonize the Law of Canada and the United States**

This committee will work jointly with members appointed by the Uniform Law Conference of Canada to harmonize the law between Canada and U.S. jurisdictions regarding the registration of final and conclusive foreign money judgments originating in either country (enforceable in the jurisdiction of origin) where recognition is sought in a jurisdiction in the other country, which are not already excluded from the coverage of the Canadian Uniform Foreign Country Money Judgment Recognition Act or the Uniform Enforcement of Foreign Judgments Act.

### **Drafting Committee on Tort Law Relating to Drones Act**

Unmanned aerial vehicles, or drones, have a range of applications, including law enforcement, wildlife tracking, search and rescue, land surveillance, border patrol, disaster response, and photography. The FAA's drone regulation largely focuses on regulation in the national airspace. Several states have enacted legislation addressing law enforcement use of drones. Some states have created crimes based on unlawful use of a drone, and have created civil penalties. This committee will draft a uniform act or model law addressing tort liability and defenses associated with the unique use of aerial drones.

### **Drafting Committee on Model Tribal Probate Code**

The federal American Indian Probate Reform Act (AIPRA) provides very limited rules concerning probate issues in Indian Country; many probate law issues exist that are addressed in the Uniform Probate Code and in existing law in most states as to which AIPRA is either silent or incomplete. This committee will collaborate with representatives of tribal governments and others from Indian Country to draft a Model Tribal Probate Code that would supplement and "wrap around" AIPRA so as to be consistent with AIPRA and also better fulfill the purposes of both AIPRA and the Indian Land Consolidation Act.

### **Drafting Committee on Civil Remedies for Unauthorized Disclosure of Intimate Images Act**

This drafting committee will create civil remedies relating to the unauthorized disclosure of intimate images. The harms resulting from the unauthorized disclosures of intimate images range from embarrassment and anger to severe depression, traumatic stress syndrome, and suicide. The injuries may also include loss of employment and inability to find employment. Frequently, postings of nude or sexually explicit pictures or videos are accompanied by the victim's name and address, leading to sexual propositions, threats, and stalking by strangers. The inherent potential for unauthorized disclosures of intimate images over the internet and other technologies present a problem that may transcend state boundaries.

### **Drafting Committee to Regulate the Management of Funds Raised Through Crowdfunding Efforts**

This drafting is prompted by the growing number of appeals to the public to provide funds for a person or family in need, many prompted by the rise of online crowdfunding sites. This committee will draft a uniform law or model act to regulate the management of funds raised through crowdfunding efforts.

### **Drafting Committee on Amendments to Revised Uniform Law on Notarial Acts**

This drafting committee will draft amendments to the Revised Uniform Law on Notarial Acts to authorize remote notarization without geographic limits on the location of the signer and to address interstate recognition of notarial acts.

## **Study Committees**

ULC Study Committees review an assigned area of law in light of defined criteria and recommend whether the ULC should proceed with a draft on that subject. Study committees typically do not meet in person. When appropriate, study committees hold meetings with those interested in the area that the committee is exploring in order to assist in gauging the need for uniform state legislation in an area, the likely scope of any drafting project, and the potential support for a project. ABA section advisors are appointed to study committees when such an appointment appears particularly useful.

The current study committees are:

### **Study Committee on Amendments to Uniform Conservation Easement Act**

The Uniform Conservation Easement Act, promulgated in 1981 and enacted in 25 states, authorizes the creation of permanent easements on real property for conservation and historic preservation purposes, with favorable federal income tax benefits. This committee will study the need for, feasibility of drafting, and appropriate breadth and depth of potential amendments to the Uniform Conservation Easements Act considering legislative, case law, and other legal developments since the UCEA's adoption.

### **Study Committee on Economic Rights of Unmarried Cohabitants**

This committee will study the need for and feasibility of drafting a uniform act or model law addressing the economic rights of unmarried cohabitants in the United States, both at divorce and upon death.

### **Study Committee on Adverse Possession**

This committee will study the need for and feasibility of state legislation on modifications to the law of adverse possession in light of modern technology affecting boundary disputes, changing public perceptions, and recent developments in the law.

### **Study Committee on Data Breach Notification**

This committee will study the need for and feasibility of state legislation on data breach notification. The committee will consider the personal information that should be protected and the methods and manner of notice.

### **Study Committee on Declarations of Quarantine**

The outbreak of the Ebola virus in Africa, and concerns about its possible migration into the United States, has led to increased focus in this country on the ways in which quarantines are declared and on possible income replacement and employment protection for those who are subject to a declared quarantine. About ten states have state legislation concerning employment protection for those who are subject to a quarantine order, and at least one state has legislation providing for some income replacement for those individuals, but that legislation varies widely in its content. Most state legislation on the subject is very old and outdated. This study committee will consider the need for and feasibility of enacting uniform or model state legislation concerning a declaration of quarantine, and concerning employment protection and income replacement for those subject to quarantine.

### **Study Committee on Event Data Recorders in Cars**

This committee will study the need for and feasibility of uniform or model state legislation concerning event data recorders in cars. Event data recorders, also known as “EDRs”, “black boxes,” and “sensing and diagnostic modules,” record information, such as vehicle speed, occupants’ seat belt use, vehicle location, and brake usage. The committee will consider the issues raised by the installation of EDRs, including privacy issues; disclosure requirements; ownership of data; use of EDR data as evidence; access to and data retrieval for use by law enforcement or others; use required by or retrieved by insurers; and use of EDR data as evidence in legal proceedings.

### **Study Committee on Garnishment of Wages in Bank Accounts**

This committee will study the need for and feasibility of state legislation specifically on garnishment of wages in bank accounts or more generally on exemptions of asset classes from claims of creditors.

### **Study Committee on Identity Management in Electronic Commerce**

This study committee will study the need for and feasibility of uniform or model state legislation concerning identity management in electronic commerce. Identity management is a set of processes to manage the identification, authentication, and authorization of individuals, legal entities, devices, or other subjects in online and other electronic contexts. It provides the answer to two simple questions that each party asks about the other party: “Who are you?” and “How can you prove it?” The committee will consider whether there are viable uniform or model legal approaches to address concerns about trustworthiness. The committee’s study also will include examining the need for and feasibility of state law governing the level of security provided by a party to an identity management transaction or by a trust service provider; defining the legal effect of electronic identification and authentication; interstate recognition of an electronic transaction under particular identification and authentication standards; allocation of liability; and remedies for a party’s failure to meet its obligations.

### **Study Committee on Installment Land Contracts**

This study committee will consider the need for and feasibility of state legislation on installment land contracts, including the nature of the rights and responsibilities held by a purchaser and a seller under an installment land contract, and the remedies available to the seller following purchaser default. As the real estate mortgage foreclosure crisis unwinds, there may be increasing use of installment land contracts, particularly by foreclosure sale purchasers of residential real estate who use such contracts to resell that real estate to low-income purchasers. Installment land contracts are effectively a form of mortgage substitute. In economic substance, the installment land contract is functionally comparable to a purchase money mortgage in which the seller provides financing of the purchase price. Currently these contracts are used for substandard housing, so that warranty and other tenant protections do not apply. Installment land contracts may lead to the complete forfeiture of equity by a defaulting purchaser, and there is considerable variation state-to-state concerning the remedies available under installment land contracts.

### **Study Committee on Right of Publicity**

The right of publicity permits an individual to protect her name, likeness, and potentially other aspects of the individual’s identity from use without permission. The states that have recognized a right of publicity have done so in dramatically different ways. 38 states have recognized a common law right based in the concepts of privacy or property; approximately 20 states have adopted legislation creating a right, some of which preempt common law rights and some of which do not. This committee will study the need for and feasibility of drafting a uniform act or model law addressing the right of publicity.

## Monitoring Committees

There are four monitoring committees which have been appointed with respect to specific areas of the law. These committees are responsible for monitoring new developments in their assigned area.

### **Committee to Monitor Developments in Civil Litigation and Dispute Resolution**

This committee was created to monitor developments and trends in civil litigation and alternative dispute resolution, to provide information to the Scope and Program and Executive Committees about these issues, to offer suggestions of issues that may be appropriate for uniform state law, and to offer suggestions on whether current ULC acts in this area should be revised, amended or withdrawn.

### **Criminal Justice Reform Committee**

This committee monitors the need for and feasibility of model and uniform state laws that effectuate criminal justice reform, and serves as an advisory committee to the Committee on Scope and Program on potential and emerging legislative developments in criminal justice reform. The Committee may be asked to review and consider proposals for criminal justice reform work, but also should consider and when appropriate present proposals to Scope and Program for necessary and feasible uniform or model state laws.

### **Committee to Monitor Developments in Healthcare Law**

The committee was formed to study and monitor any developments in health care law, provide information to the ULC about these issues, offer suggestions of issues that may be appropriate for uniform state laws, and to offer suggestions and input, upon request, to the ULC about healthcare law and related issues.

### **Committee on Technology**

This committee was formed to study and monitor developments in technology, particularly as new technologies impact current ULC Acts. The committee provides information to the Scope and Program Committee on these issues, and may offer suggestions of issues that may be appropriate for a uniform or model law.

## Editorial Boards

Six editorial boards have been appointed with respect to uniform acts in various subject areas. These boards are responsible for monitoring new developments which may have an impact on the acts and for making recommendations for revising existing acts or drafting new acts in their subject areas. The editorial boards are made up of members from the Uniform Law Commission, the American Bar Association, the American Law Institute, and other organizations.

### **Permanent Editorial Board for Uniform Commercial Code**

### **Joint Editorial Board for Uniform Family Law**

### **Joint Editorial Board on International Law**

### **Joint Editorial Board for Uniform Real Property Acts**

### **Joint Editorial Board for Uniform Trust and Estate Acts**

### **Joint Editorial Board on Uniform Unincorporated Organization Acts**



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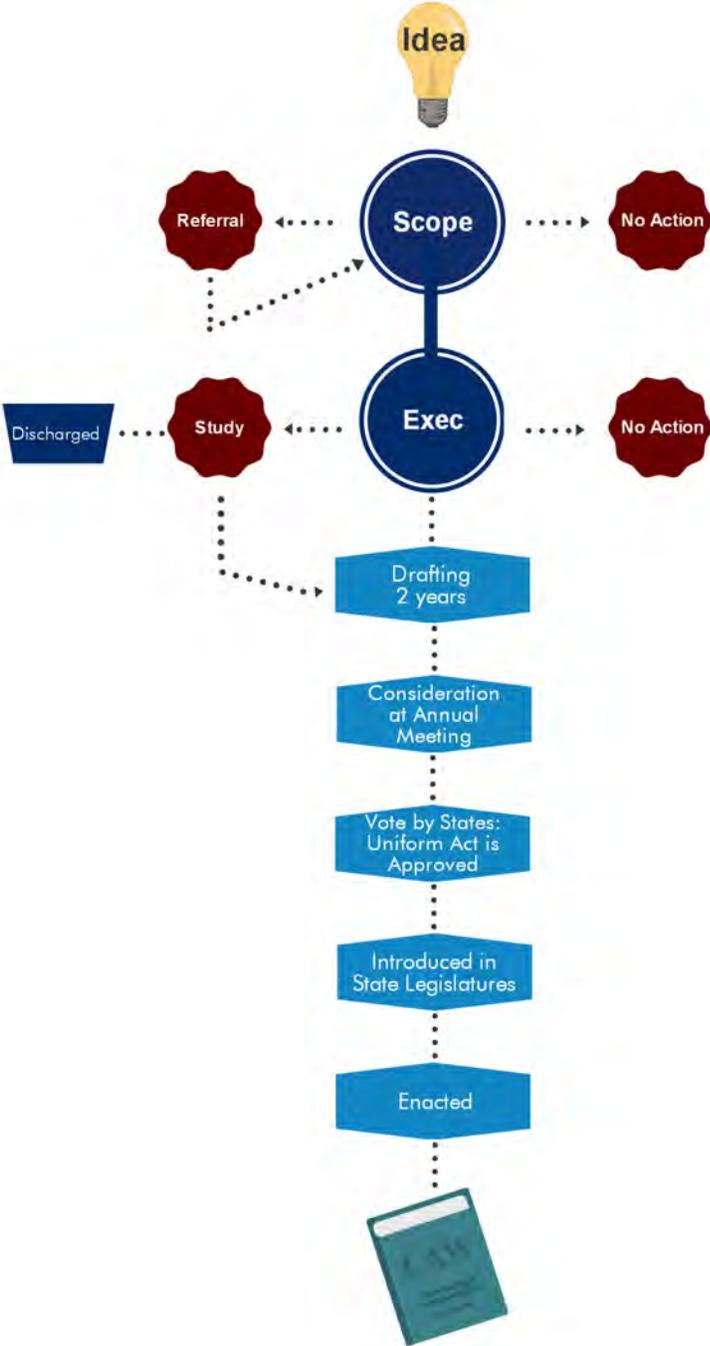
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\*Membership as of January 8, 2018



Ideas for new uniform or model acts are considered by the ULC Committee on Scope and Program, which welcomes requests from organized bar, state governmental entities, private interest groups, uniform law commissioners and private citizens. Any party wishing to suggest an idea for a uniform or model act may contact the ULC headquarters office in Chicago, which will forward the suggestion to the Committee on Scope and Program.

Guidelines concerning the submission of ideas for new uniform or model acts can be found on the ULC's website at [www.uniformlaws.org](http://www.uniformlaws.org)



# ABOUT THE UNIFORM LAW COMMISSION

The Uniform Law Commission (ULC), now in its 126th year, provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.

ULC members must be lawyers, qualified to practice law. Commissioners are practicing lawyers, judges, legislators and legislative staff and law professors, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.

- ULC strengthens the federal system by providing rules and procedures that are consistent from state to state but that also reflect the diverse experience of the states.
- ULC statutes are representative of state experience, because the organization is made up of representatives from each state, appointed by state government.
- ULC keeps state law up-to-date by addressing important and timely legal issues.
- ULC's efforts reduce the need for individuals and businesses to deal with different laws as they move and do business in different states.
- ULC's work facilitates economic development and provides a legal platform for foreign entities to deal with U.S. citizens and businesses.
- ULC Commissioners donate thousands of hours of their time and legal and drafting expertise every year as a public service, and receive no salary or compensation for their work.
- ULC's deliberative and uniquely open drafting process draws on the expertise of commissioners, but also utilizes input from legal experts, and advisors and observers representing the views of other legal organizations or interests that will be subject to the proposed laws.
- ULC is a state-supported organization that represents true value for the states, providing services that most states could not otherwise afford or duplicate.

Uniform Law Commission  
111 N. Wabash Ave., Ste. 1010  
Chicago, IL 60602  
312.450.6600  
[www.uniformlaws.org](http://www.uniformlaws.org)