

Uniform Authentication and Preservation of State Electronic Legal Materials Act
Report of Drafting Committee Progress
December 3, 2010

The drafting committee for the Uniform Authentication and Preservation of State Electronic Legal Materials Act met in Washington, D.C., at the Palomar Hotel, on November 19 and 20, 2010.

The meeting resulted in significant forward progress on the act, including in the following areas:

1. Commercial publishers. There is broad agreement in the committee that the act has found the correct balance in its treatment of commercial publishers. Mandates in the act are imposed on official state publishers, and commercial publishers would be involved, if at all, under separate contractual agreements.
2. Preservation. The preservation section was improved, and the committee is comfortable with the changes made to that section of the act.
3. Definitions. Minor changes were made to the definitions section of the act, and the committee is in agreement with the changes.
4. Effective Date. The effective date problems raised during the first reading have been addressed with clearer drafting to assure prospective application of the act.
5. Standards. The committee reached conceptual agreement to strengthen the standards section of the act; language will need to be drafted and discussed at the February, 2011, drafting committee meeting.

There are four major policy issues that still need resolution:

1. Authentication. What exactly should the authentication section of the act require, and how should the requirement be expressed? Concerns about the cost of compliance and its effect on enactability were raised at the recent meeting.
2. Access. Should we have a bracketed section that permits states to require that free access be provided to the public?
3. Title. At the November 20th meeting with Uniform Law Conference leadership, the issue of the length and unwieldy nature of the act's title was raised. Shorter titles will be discussed at the February meeting.
4. Uniform vs. Model Act. Committee discussion at the November meeting favored retaining the designation as a uniform act, but this issue will be discussed further in February.

In general, this second meeting of the drafting committee went well, and the group is becoming more comfortable in working together.

Respectfully submitted, Michele L. Timmons, Drafting Committee Chair