

**Minutes**  
**Midyear Meeting of the Executive Committee**  
**Uniform Law Commission**

Saturday, January 14, 2017

Anita Ramasastry, Chair of the Executive Committee, called the meeting to order on January 14, 2017, at 8:00 a.m. Central Time. The following members of the Committee were present: Timothy Berg; Thomas J. Buiteweg, Treasurer; Richard T. Cassidy, President; William H. Henning; Melissa Hortman, Vice President; Harriet Lansing, Immediate Past President; Ryan Leonard, Chair of the Legislative Committee; Carl Lisman, Chair, Scope and Program Committee; Daniel Robbins, Secretary; and Rodney Satterwhite.

Also present: Peter Lown, Executive Director to the Joint Editorial Board on International Law/Director of Research to the International Legal Developments Committee; Commissioner Howard J. Swibel, Chair of the Uniform Law Foundation Trustees; Commissioner Charles A. Trost; Liza Karsai, Executive Director; Elizabeth Cotton-Murphy, Chief Administrative Officer; Katie Robinson, Legislative Program Director; and Ben Orzeske, Chief Counsel. Commissioners Mike Houghton and Robert A. Stein participated for a portion of the meeting by conference call.

**1. Minutes**

A motion was made and approved accepting the minutes of the Executive Committee meetings held July 7, July 11, October 4 and October 14, 2016.

**2. Requests for Name Changes**

A motion was made and approved that the Uniform Guardianship and Protective Proceedings Act be changed to the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act.

A motion was made and approved that the Limited Liability Company Protected Series Act be changed to the LLC Protected Series Act.

**3. Requests for Uniform Designation**

A motion was made and approved that the Directed Trust Act be designated the Uniform Directed Trust Act.

A motion was made and approved that the LLC Protected Series Act be designated the Uniform LLC Protected Series Act.

**4. Consideration of Excused Absences**

A motion was made and approved excusing the absence of Elena J. Duarte from the 2016 Annual Meeting.

**5. Requests for Life Membership**

No requests for life membership were submitted for consideration.

## **6. Requests for Technical and Other Amendments**

### **A. Uniform Condominium Act**

After discussion a motion was made and approved authorizing technical amendments to the Uniform Condominium Act under Section 4.3(b)(3) of the ULC Constitution.

### **B. Uniform Family Law Arbitration Act**

After discussion a motion was made and approved authorizing technical amendments to the Family Law Arbitration Act, Sec. 19(a)(7) and 25(e)(1) under Section 4.3(b)(3) of the ULC Constitution.

### **C. Revised Uniform Residential Landlord and Tenant Act**

After discussion a motion was made and approved authorizing amendments to the Revised Uniform Residential Landlord and Tenant Act, Sec. 302, 107(b), and 604, under Section 4.3(b)(3) of the ULC Constitution.

### **D. Uniform Probate Code and Uniform Custodial Trust Act**

After discussion a motion was made and approved authorizing technical amendments to the Uniform Probate Code, Sec. 2-802, 2-804, and 3-101A, and the Uniform Custodial Trust Act, Sec. 6, under Section 4.3(b)(3) of the ULC Constitution.

### **E. Uniform Trust Code**

After discussion a motion was made and approved authorizing technical amendments to the official comments to the Uniform Trust Code, Sec. 413, under the ULC official comment policy.

### **F. Power of Attorney Act**

Ben Orzeske reported on a transcription error in the Power of Attorney Act. The Committee agreed that this minor correction should be made and that it did not require further action.

## **7. Approval of the Audit Report**

Treasurer Buiteweg reported on the audited financials. A motion was made and approved accepting the audit report.

## **8. Proposed Amendment to the Constitution and Bylaws**

Commissioner Hortman summarized proposed changes to the Constitution intended to better reflect the leadership structure within ULC Leadership. The Committee discussed how external stakeholders often did not understand the role of the Chair of the ULC Executive Committee and often thought that the Vice President had a greater role than the Chair in terms of ULC governance.

After discussion, a motion was made and approved to present for vote of the Conference at the 2017 Annual Meeting the proposed amendment to Section 4.1 of the Constitution by which the Chair of the Executive Committee shall also hold the title “Executive Vice President of the Uniform Law Commission”. The Executive Committee felt this would better signal the status of the Chair of the Executive Committee in terms of roles and responsibilities.

## **9. Authorization for Chair of the Committee on Scope and Program to attend meetings of State and Federal Relations/Liaison with Other Organizations**

Executive Committee Chair (Chair) Ramasastry reported on the potential benefits associated of having a Scope and Program representative attend future meetings of the State and Federal Relations Committee. She noted that this suggestion had been put forward by Commissioners Walters and Higer, the chairs of the State and Federal Relations Committee.

President Cassidy reported on changes to the meeting budget for the State and Federal Relations/Liaisons with Other Organizations Committee, reflecting that committee leadership will be the ones principally to conduct biannual meetings with partner organizations in Washington, DC, while all committee members will continue to perform liaison work throughout the year and attend meetings of the organizations for which they serve as liaisons.

## **10. Consideration of the Student Legal Writing Competition Proposal**

Chair Ramasastry summarized the written report submitted for the Executive Committee's consideration. The Committee discussed the feasibility of the ULC managing such a competition, and the ULC's prior experience with running such a competition. After discussion, no action was taken.

### **Discussion Items**

## **11. Legislative Updates**

Commissioner Leonard summarized the written reports submitted for the Committee's consideration.

The Committee discussed the importance of continued positive relations with each state's legislative body and offered suggestions for activities that could strengthen these relations. Commissioner Leonard indicated that the Legislative Council would consider these ideas.

The Committee considered whether the number of new approved acts presents a structural impediment to increasing the number of enactments beyond the historical enactment record, and whether structural changes in the drafting process would affect enactments.

## **12. Budget and Finance**

### **A. Proposed Revisions to the FY 2016-17 Budget**

Commissioner Buiteweg led a discussion of recommended changes to the fiscal year 2017 budget. A motion was made and adopted approving the revised budget.

### **B. Future Finances**

Commissioner Buiteweg summarized the written reports submitted for the Committee's consideration. The reports reflect proposed adjustments to the budget, including: replacing the legal interns with an externship program; reducing the average size of committees; and restructuring the meetings of the State and Federal Relations Committee. These steps are being taken to ensure the fiscal soundness of ULC operations, while preserving its ability to conduct its core activities. The reports were received by the committee.

### **C. Fair Labor Standards Status Report**

Executive Director Karsai reported on implementation of new Department of Labor Guidelines. Two employees have been reclassified as non-exempt, effective December 1, 2016.

#### **13. Discussion of Leadership Strategic Planning Session**

Chair Ramasastry summarized the discussions and recommendations from the ULC Leadership Strategic Planning Meeting. Discussions included: a possible decline in royalty revenue, and rising meeting costs, including increased travel and hotel costs. The participants also discussed collection of state dues.

The Committee discussed the creation and appointment of a small committee to work with the Legislative Council and state delegations. The committee will: work with delegations to develop a dues restoration plan; monitor delegation activities related to dues restoration; and mobilize and maintain an ongoing effort until dues payment is restored. The concept of institutionalizing dues collection and strengthening state delegations as a responsibility of the Vice President was also discussed.

#### **14. Nelson Mullins Contract Renewal**

Chair Ramasastry reported that the contract with Nelson Mullins lapsed at the end of August 2016. The Committee asked staff to develop metrics on how often and what types of service Nelson Mullins provides to determine whether the ULC is maximizing the value of this relationship. Commissioners Tennessen, Houghton, and Leonard, who have expertise in lobbying efforts and familiarity with Nelson Mullin's work product, will be engaged to evaluate the services provides. The contract should be updated to clarify services to be provided.

After discussion, a motion was made and approved authorizing the President to negotiate with Nelson Mullins for ongoing service.

#### **15. International Projects, Role of the ULC**

Commissioner Stein summarized the written materials submitted for the Committee's consideration. The reports were received by the committee.

Commissioner Mike Houghton summarized the respective roles and operation of the International Joint Editorial Board (IJEB) and the International Legal Developments Committee (ILDC). The IJEB is our interface with the international law section of the ABA and a conduit for possible partners for ULC international projects. The ILDC is a ULC committee that makes recommendations to the ULC about international projects and ULC international policies. Historically, the ILDC considers when to make recommendations to the Executive Committee.

Commissioner Houghton also noted that the ULC is uniquely positioned to assist the states when federal action will disrupt existing state law or introduce policies or practices in conflict with existing state law. When the ULC participates with the United States during negotiations of conventions or treaties, the ULC can urge that any resulting product is consistent with or embodies state law.

The Executive Committee discussed possible future international projects, with one recommendation being to work primarily with English speaking, commonwealth countries who have a common-law tradition.

Peter Lown, Executive Director to the IJEB and Director of Research to the ILDC, reported on recent activities. ILDC and IJEB hope to be more proactive in the generation of project ideas beneficial to the ULC. Examples of projects that might fall into this category are e-wills, crowd funding, and identity management.

Commissioner Swibel raised the importance of a broad enactment record when engaging in international projects. The enactment record provides evidence of the importance of state law to our international partners.

The Executive Committee requested that the ILDC develop a policy on harmonization efforts. Ms. Karsai recommended the creation of a brief statement regarding the international role of the ULC such as “the ULC represents the states and becomes involved occasionally in international work to protect state interest.” A draft will be submitted for the Committee’s consideration.

#### **A. Peter Lown’s Contract Renewal**

After discussion a motion was made and approved authorizing President Cassidy to request up to \$50,000 from the Uniform Law Foundation to renew funding for a second one-year term for a Research Director for the ILDC, who will also assist the IJEB.

### **16. Current and Past Presidential Priorities**

#### **A. Information Protocols and Policies**

President Cassidy summarized an initial draft of a proposed policy statement on Transparency and Open Records submitted for the Committee’s consideration by Commissioners Henning, Appelwick and Willis, a committee tasked with developing a proposed policy for Executive Committee approval.

After discussion, the Executive Committee requested that the policy be revised as follows:

- better articulate what is meant by “official records;”
- clarify “historical” versus “current;”
- contemplate the ULC’s relationship with the ULC archive maintained at the University of Texas;
- develop a retention policy to govern how long documents are posted the website and when documents are sent to the archive;
- contemplate whether to expand Section 2 on study and drafting committee records to include standing committees, subcommittees, or other types of committees;
- consider both the internal and external uses of materials, particularly committee drafts, memos and commentary;
- consider governance of unofficial committee materials such as invitations and email correspondence;
- consider financial information; and
- further develop Section 6 on procedures and charges.

#### **B. Diversity and Inclusion**

President Cassidy reported on plans to appoint a committee to review our policy on diversity and inclusion.

### C. Website Design Progress Report

Elizabeth Cotton-Murphy presented the new website prototype which is currently under development.

### D. Guidelines for Drafting and Editing Legislation

Commissioner Lansing reported on the publication of the *Guidelines for Drafting and Editing Legislation*. It was printed by Rose Penn and is currently available for purchase on Amazon. A small group will be appointed to consider potential uses for the publication. Ben Orzeske recommended reaching out to Law Libraries and State Bar Associations to recommend that they purchase the books. Commissioner Swibel recommended that there may be a way to promote the book in the international area to other legislative drafting units in common law countries.

### E. ULC & ULF Working Group Status Report

President Cassidy led a discussion of the purpose of the Uniform Law Foundation and ways that the Foundation might consider supporting the ULC. Potential sponsorship ideas included: annual meeting registration fees; annual meeting travel; drafting committee travel expenses for poverty/consumer lawyers representing consumer interest groups; and ULC operating expenses.

## 17. Report of the Committee on Scope and Program

### A. Recommendations Concerning Establishment of New Study Committees

1. Scope approved the following resolution recommending that a study committee on a Right of Publicity Statute be formed.

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a study committee be formed to study the need for and feasibility of state legislation on a right of publicity statute, which would protect the rights of celebrities and others to control commercial use of their names and likenesses.**

The Executive Committee resolved to appoint a study committee to consider and report on the need and feasibility of state legislation on right of publicity.

2. Scope approved the following resolution recommending that a study committee on a Rights of Unmarried Cohabitants be formed.

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a study committee be formed to study the need for and feasibility of state legislation on economic rights of unmarried cohabitants.**

The Executive Committee resolved to appoint a study committee to consider and report on the need and feasibility of state legislation on the economic rights of unmarried cohabitants.

3. Scope approved the following resolution recommending that a study committee to Amend the Uniform Conservation Easement Act be formed.

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a study committee be formed to study the need for and feasibility of amending the Uniform Conservation Easement Act.**

The Executive Committee resolved to appoint a study committee consider and report on the need to amend the Uniform Conservation Easement Act.

4. Scope approved the following resolution recommending that a study committee on a Relocation of Easements be formed.

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a study committee be formed to study the need for and feasibility of state legislation on relocation of easements.**

The Executive Committee tabled this resolution.

B. Resolutions for Drafting Committees

1. Scope approved the following resolution recommending that a drafting committee on Electronic Wills be formed.

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Drafting on Electronic Wills be formed.**

The Executive Committee resolved to appoint a Drafting Committee on Electronic Wills.

2. Scope approved the following resolution recommending that a joint drafting committee with the ULCC be formed to Harmonize the Law between Canadian and U.S. Jurisdictions regarding Registration of Final and Conclusive Foreign Money Judgments Originating in Either Country be formed.

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Joint Drafting Committee consisting of members of the Uniform Law Conference of Canada and the Uniform Law Commission be appointed to Harmonize the Law between Canadian and U.S. Jurisdictions regarding 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, be formed.**

The Executive Committee resolved to appoint a Joint Drafting Committee with the Uniform Law Conference of Canada to Harmonize the Law between Canadian and U.S. Jurisdictions regarding Registration of Final and Conclusive Foreign Money Judgments Originating in Either Country.

3. Scope approved the following resolution recommending that a drafting committee on Regulation of Drones be formed.

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Drafting Committee Regarding the Unique Aspects of Drones under Tort Law be formed.**

The Executive Committee resolved to appoint a Drafting Committee Regarding the Unique Aspects of Drones under Tort Law.

3. Scope approved the following resolution recommending that a drafting committee on State Regulation of Driverless Cars be formed.

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Drafting Committee on Highly Automated Vehicles be formed to address definitions and scope, registration and title, and liability.**

After considering the recommendation, the Executive Committee approved an amended resolution, and resolved to appoint a Drafting Committee on Highly Automated Vehicles, with the direction that the committee prepare an outline of definitions and scope, and registration and title issues, to be delivered to the Executive Committee for its consideration at the Annual Meeting in July 2017.

5. Scope approved the following resolution recommending that a drafting committee on to Revise the Uniform Disposition of Community Property Rights at Death Act be formed.

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Drafting Committee to Revise the Uniform Disposition of Community Property Rights at Death Act be formed, to address implications of domestic partners, what property constitutes community property, burdens of proof, and the scope of the duties of a personal representative.**

The Executive Committee deferred action.

6. Scope approved the following resolution recommending that a drafting committee on Uniform Estates and Future Interests Act be formed.

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that a Drafting Committee to consider Simplification and Codification of Future Interests Act be formed.**

The Executive Committee deferred action.

#### C. Resolutions for Discharge

1. Scope approved the following resolution recommending that the Study Committee on Bad Faith Patent Demand Letters be discharged.

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that the Study Committee on Bad Faith Patent Demand Letters be discharged with a letter of thanks to the committee.**



The Executive Committee approved this resolution.

D. Other Resolutions

1. Scope approved the following resolution recommending that the Drafting Committee to Revise the Uniform Parentage Act to expand its scope.

**RESOLVED, that the Committee on Scope and Program recommends to the Executive Committee that the charge for the Drafting Committee to Revise the Uniform Parentage Act be expanded so that the Act include de facto parents as legal parents.**

The Executive Committee accepted the Scope Committee's recommendation and approved an expansion of the Drafting Committee to Revise the Uniform Parentage Act's charge as outlined in the Scope Committee resolution.

E. Other Recommendations

1. Scope recommended that the Executive Committee evaluate the implication of timeliness in the role of study committees and that they consider whether and how to constrain the length of acts.

After discussion, it was decided that Commissioners Berg and Lisman would evaluate the implication of timeliness in the role of study committees and consider whether and how to constrain the length of acts.

Legislative Council was directed to review whether the number of pages has had a direct impact on enactment.

2. Scope approved the following resolution recommending that the Executive Committee confirms the authority of the Chair of the Scope and Program.

**RESOLVED, that the Executive Committee confirms the authority of the Chair of the Committee on Scope and Program to seek the assistance of staff or others to evaluate potential projects and to supplement proposals with additional research as needed.**

The Executive Committee approved the resolution and confirmed the authority of the Chair of the Committee on Scope and Program.

**18. Review of Current Drafting Policies**

Ms. Karsai summarized the written report submitted for the Committee's consideration and led a discussion on the need for a policy for consistent naming of approved acts. It was decided that Commissioner Lisman and Ms. Robinson will review the memo and make recommendations on naming conventions and that the Executive Committee would meet by conference call to consider recommendations to advise website development.

## **Statement of ULC Investment Policy Revisions**

Commissioners Swibel summarized the recommended changes to the investment policy submitted in writing for the Committee's consideration. A motion was made and approved adopting changes to the investment policy as recommended. The policy will be incorporated into the Executive Committee Handbook and Accounting Policy Guide.

### **19. Reciprocal Fee Waivers with Other Organizations (e.g. NCSL)**

Chair Ramasastry raised whether a broader policy should be developed with respect to other organizations that partner with the ULC. After discussion a motion was made and adopted approving reciprocal fee waivers for a number of attendees left to the President's discretion, for representatives from the following partner organizations: Council of State Governments; National Association of Attorneys General; National Association of Secretaries of State; National Center for State Courts; and National Conference of State Legislatures.

The Executive Committee was adjourned at 5:30 pm.

## **Appendix**

### **1. Officer Reports**

#### **A. Report of the Vice President**

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

#### **B. Report of the Secretary**

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

#### **C. Report of the Chair of Legislative Committee**

Written reports were submitted for the Executive Committee's consideration. Those reports were received by the Committee.

### **2. Committee Reports**

#### **A. Committee on State and Federal Relations and Other Organizations**

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

#### **B. Criminal Justice Reform Committee**

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

C. Committee to Monitor Developments in Civil Litigation and Dispute Resolution

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

D. Committee to Monitor Health Care Law

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

E. Committee on Technology

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

F. International Initiatives

i. International Legal Developments Committee

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

ii. Joint Editorial Board for International Law

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

G. Tribal Law Activities

No report was received.

H. Committee on Academic Partnerships

No report was received.

I. Coordinating Committee to Draft Technical Amendments to ULC Acts

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

J. Joint Editorial Board for Uniform Family Law

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

K. Joint Editorial Board for Uniform Real Property Acts

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

L. Joint Editorial Board for Uniform Trust and Estates Acts

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

3. Meeting Report

A. Annual Meeting Schedule and Events

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

B. Report on Committee Meetings

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

C. Report on Annual Meeting and Midyear Meeting Dates and Locations

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee. The ULC will meet in San Diego, CA, Friday, July 14 – Thursday, July 20, 2017; the ULC will meet in Louisville, KY, Friday, July 20 – Thursday, July 26, 2018; and the ULC will meet in Anchorage, AK, Friday, July 12 – Thursday, July 18, 2019.

4. Office Reports

A. State Dues Report

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

B. Report on ULC Investments

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

C. Midyear Status Report

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

D. Grants Report

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

E. Activity Report of the Executive Director

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

F. Activity Report of the Chief Administrative Officer

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

G. Report of the ULF Fellow

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

**5. Reports of the Uniform Law Foundation**

A. Financials

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

B. Fundraising

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.

C. Trustee Minutes

Minutes from the recent Trustee meeting were received by the Committee.

**6. Miscellaneous Reports**

A. Report on the Work of ULC's Federal Government Relations Representatives, Nelson Mullins Public Strategies, and other Federal Relations Matters

A written report was submitted for the Executive Committee's consideration. That report was received by the Committee.