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## MEMORANDUM

To: Joint Editorial Board for Uniform Trust and Estate Acts

From: Benjamin Orzeske  
ULC Chief Counsel and Staff Liaison to the JEB-UTEA

Re: Minutes from May 2017 Meeting; Chicago, Illinois  
**FINAL – Approved on December 1, 2017**

The meeting was called to order on Friday, May 12, 2017, at 9:00 a.m. by Chair Bruce Stone. Others present were Turney Berry, David English, Mary Louise Fellows, Thomas Gallanis (JEB Executive Director), Shirley Kovar, Carlyn McCaffrey, Kevin Millard, Malcolm Moore, Benjamin Orzeske (ULC Staff Liaison), Pam Schneider, and James Wade.

- 1. Approval of Minutes.** Mr. English moved for approval of the draft Fall 2016 minutes, and the Board unanimously approved the draft.
- 2. Directed Trust Act.** Prof. Sitkoff joined the meeting by telephone to present the Act's latest draft as submitted to the ULC Style Committee. The Board discussed various provisions, providing feedback to the drafting committee. The drafting committee hopes to have the Act's final reading and approval at the July 2017 annual meeting of the ULC.
- 3. Guardianship, Conservatorship, and other Protective Arrangements Act.** Prof. English presented the Act's latest draft as submitted to the ULC Style Committee. The Board reviewed provisions highlighted in Judge Wade's May 5, 2017, memorandum and discussed other sections on which Prof. English requested input. The drafting committee hopes to have the Act's final reading and approval at the July 2017 annual meeting of the ULC.
- 4. Trust Management of Funds Raised through Public Fundraising.** Mr. Berry and Mr. Orzeske reported that the study committee was wrapping up its work and its Chair Terry Care was expected to submit a recommendation to the ULC Scope and Program Committee to form a drafting committee.
- 5. Revisions to the Uniform Parentage Act.** Prof. Fellows, who serves as an ABA-RPTE Section Advisor to the drafting committee, gave an overview of the project. Reporter Courtney Joslin then joined the group by telephone for a discussion of the Act's latest draft as submitted to the ULC Style Committee. In addition to reviewing specific provisions of the act and providing feedback, the Board discussed whether certain other uniform acts

would need to be conformed if the Uniform Parentage Act revisions are approved. The discussion focused on conforming amendments to the Uniform Probate Code, which might be drafted by the Board. Action Item: Prof. Gallanis will draft a brief memo to the executive committee indicating the Board's willingness to draft conforming amendments.

6. **Economic Rights of Unmarried Cohabitants.** Mr. Orzeske reported that the newly formed study committee has met once by conference call and would begin its substantive work in the next few months.
7. **Drafting Committee on the Model Tribal Probate Code.** Prof. Katherine Guzman, co-reporter for the drafting committee, joined the discussion by phone. The Board reviewed issues from Judge Wade's May 3, 2017, memorandum and discussed various other issues addressed in the Act. Prof. English reported that the drafting committee hopes to finish soon and begin working on an implementation guide for use by Indian Tribes. No further in-person drafting meetings are planned. The model act will not be read at the ULC annual meeting but will be published on the ULC website upon completion.

The committee adjourned for the day at 5:06 p.m. and reconvened at 9:00 a.m. on Saturday May 13, 2017.

8. **Electronic Wills.** Commissioner Suzanne Brown Walsh joined the meeting by telephone to report on this new drafting committee, which she chairs. She reported that eight states have introduced legislation on the topic, and the ULC is tracking this legislation. The committee is adding observers from the technology industry to participate at the first drafting meeting in Fall 2017, and already has commitments from some of the larger tech firms. Mr. Stone reported that Florida legislation on this topic had passed in the current session but also likely would be amended before becoming fully effective, and requested Ms. Walsh to provide input for the amendment process.
9. **Uniform Powers of Appointment Act.** Mr. Gallanis raised the issue of amending the Uniform Powers of Appointment Act in light of a recent discussion on the ACTEC listserv about exercising a nongeneral power to create a new nongeneral power. There was agreement to consult with Prof. Langbein and Prof. Waggoner about the issue and defer any recommendation until the Board's Fall 2017 meeting. Action Item: Prof. Gallanis will contact Prof. Langbein and Prof. Waggoner to brief them on the issue and solicit their views. The Board also discussed a recent article published by Alexander Bove on whether a transfer was required to create a power of appointment. The Board decided no amendment to the uniform act was necessary at this time. Action Item: Mr. Berry will contact Mr. Bove to discuss the issue further and determine whether there was a practical reason to create a power of appointment without a transfer.
10. **Uniform Trust Code.** The Board discussed whether any recently approved uniform acts or new uniform acts pending approval should be incorporated into the Uniform Trust Code. Prof. English suggested that incorporation was unnecessary and potentially complicated, though states could codify multiple acts in a single chapter of a statutory code. The Board agreed.

**11. Guardianship.** The Board returned to a discussion of revisions to the Guardianship, Conservatorship, and other Protective Proceedings Act. Professor English discussed the issue of whether transactions executed by an adult subject to guardianship should be voidable and received input from the board.

The Board adjourned at approximately 11:30 a.m.

Respectfully submitted,  
Benjamin Orzeske