



Uniform Law Commission

Drafting Rules
and
Style Manual

2023 Edition

Drafting Rules and Style Manual

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Drafting Rules and Style Manual

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Drafting Rules and Style Manual

Introduction

This manual presents basic rules of the Uniform Law Commission (“ULC”) for drafting a uniform or model act. The manual does not include exhaustive guidelines for good legislative drafting and must be supplemented by other rules, such as those for spelling and grammar. The appendices include examples of preferred usage of words and phrases, rules for formatting an act, an example of a properly formatted act, and a template that may help a reporter get started.

Recently adopted ULC acts may provide limited style guidance. However, be cautious in drawing on the text of an act adopted by the ULC before this edition of the manual because it may use an outmoded style of drafting. Drafting style consistent with this manual controls in a conflict with earlier style.

The essentials of good legislative drafting are accuracy, brevity, clarity, consistency, and simplicity. The purpose and effect of an act should be evident from its language. Choose words that are plain and commonly understood. Omit unnecessary words. Use language that conveys the intended meaning to a reader who is not an expert in the subject matter. Consult a standard dictionary for the generally accepted meaning and usage of a word.

Overview of Drafting Process

A drafting committee for a ULC act is comprised of ULC commissioners appointed by the ULC President, advisors appointed by an appropriate section of the American Bar Association, and observers or stakeholders interested in the act. The President also appoints a ULC commissioner to chair the committee. The ULC Executive Director appoints a reporter who is a subject-matter expert responsible for advising the committee and preparing each draft.

A drafting committee ordinarily meets in person twice each year – once in the fall and once in the spring. The commissioners, advisors, and observers on the committee are expected and encouraged to participate in the work of the committee. While the reporter for the committee has primary responsibility for preparing drafts of the act, the drafting occurs with the input of and consultation with the drafting committee members – including advisors, observers, and ULC division chair. A policy conflict among the committee participants is resolved by a majority vote of the commissioners on the committee.

Typically, a draft act is read section-by-section at no fewer than two ULC annual meetings. At these meetings, the drafting committee considers questions and comments from commissioners, which give the committee direction and advice. At the end of the process, the act is submitted to a vote by the states at a ULC annual meeting. If approved, the act is prepared for distribution to the states for enactment. The process from initial appointment of a drafting committee to final approval ordinarily takes two years.

The ULC’s Committee on Style (“Style Committee”) is responsible for revising uniform and model acts for phraseology and style in accordance with this manual. At the beginning of the drafting process, the chair of the Style Committee appoints a liaison for each act. Throughout the drafting

process, the reporter should seek guidance from the liaison. The ULC bylaws require all drafts scheduled to be read at a ULC annual meeting to be submitted to the Style Committee for review. The Style Committee also reviews an act after it has been finally approved by the ULC. Normally, the chair and the reporter of the drafting committee work with the Style Committee liaison to incorporate changes suggested by the Style Committee. If after final approval of an act an irreconcilable difference concerning an edit develops between the Style Committee and the chair of the drafting committee, the chair refers the difference to the ULC Executive Committee for resolution.

Part 1

Structure and Format of Act

Subpart A: Text of Act

Rule 101. Arrangement of Provisions of Act

(a) Organize an act in the most useful and logical manner for the reader. Avoid an organization that requires an understanding of a later section to understand an earlier section. Group together all sections dealing with a common subject.

(b) A lengthy act may be divided into articles. In an exceptional case, further subdivision into parts may be considered. Some states do not permit an article to be subdivided into parts. If an act is divided into articles, Article 1 is titled “General Provisions”. Article 1 includes the title and definitions section as the first two sections, followed by any other provisions generally applicable to the act, such as scope or rulemaking authority. The heading for an article or part is in boldface type, with the term “[Article] __” or “[Part] __” in initial capital letters centered on one line and the title of the article or part centered on the next line.

The words “[Article]” and “[Part]” are in brackets because many states use another term, such as “Title” or “Chapter”, to describe these divisions. The exception to this rule is the Uniform Commercial Code, in which the states generally have designated the articles as “Articles”. Capitalize the reference to “[Article]” or “[Part]” when a provision in one article or part refers to a different article or part. Lower case the reference to “[article]” or “[part]” when the reference is to the article or part in which the provision appears, e.g., “In this [article], . . .”

(c) The ULC office will prepare a table of contents for an act and place it immediately before the provisions of the act.

(d) The following is the order of provisions in an act:

(1) Title

(2) Definitions

(3) Scope

[(4) Administrative and Procedural Provisions]

(5) Substantive Provisions

[(6) Prohibitions and Penalties]

(7) Uniformity of Application and Construction

[(8) Relation to Electronic Signatures in Global and National Commerce Act]

[(9) Saving Provision]

[(10) Transitional Provision]

[(11) Severability]

[(12) Repeals and Conforming Amendments]

(13) Effective Date

See Appendix D for a template of an act.

(e) The last provisions in an act, described in (d)(7) through (13), are standard. For the required language, see Rules 401 through 406. Keep these provisions in this order. If the act is divided into articles, place only the standard provisions in the last article, titled “Miscellaneous Provisions”.

The provisions in (d)(4) and (6) are in brackets because they may not be applicable in every act.

The provisions in (d)(8) through (12) are in brackets, indicating that they may be unnecessary and may be omitted. Rules 401 through 406 describe when the provisions are appropriate in an act.

Rule 102. Title of Act

(a) The title of an act is the title approved by the Executive Committee of the ULC. The Executive Committee also decides whether to designate the act as “Uniform” or “Model” and often makes that decision on recommendation of the drafting committee. The decision may be deferred until shortly before the act is submitted for final approval. Until the Executive Committee makes the decision, omit the term “Uniform” or “Model” from the title.

(b) The title of a uniform act should begin with “Uniform” and end with “Act” or the title may be “Uniform Act [on] [for] [to] [relating to] . . .”. The title of a model act should begin with “Model” and end with “Act”, or the title may be “Model Act [on] [for] [to] [relating to] . . .”. The title must reflect the substance of the act accurately.

(c) The title of a uniform or model act is distinguished from the longer, more detailed description of an act that often is included in a bill introduced in a state legislature. Each state has its own standards and practices as to what a title requires, many prescribed by the state’s constitution, statutes, or legislative rules.

(d) Use the following guidelines for naming an act:

(1) The name should signal the main topic of the act and should begin with that main topic. Often that means eliminating or switching the order of words in a title. For example, “Prevention of and Remedies for Human Trafficking Act” would be named “Human Trafficking

Prevention Act”. “Protection of Charitable Assets Act” would be named “Charitable Assets Protection Act”.

(2) The name of an act should be three to six words long, including the words “Uniform” or “Model” and “Act”.

(3) An acronym for the title should not be used in the title or text of an act or in a legislative note but may be used in a comment. Even in a comment, a more informative shorthand reference, such as a one- or two-word reference, is preferable to an acronym.

(4) The name of an original act should not include a date. A revision of an act, including a technical amendment, must include the date of the revision in parentheses at the end of the name of the act.

(5) When the act is published in print and on the ULC website, the ULC office will add history information about the act. The history information will:

(A) be at the bottom of the title page;

(B) identify the year the act initially was approved and each year it was amended; and

(C) when presented electronically, include a hyperlink to every other version of the act.

(6) When a new version of an act replaces an earlier version, the ULC office will alter the history information on the ULC website about the earlier version to indicate it is not the current version.

(7) The distinction between a revised and an amended act is discontinued. Neither term should be used in the name of an act. The history information under (5) and (6) will provide legislators with information that is appropriate to the particular state – if the state has adopted the previous version, the act should be introduced as an amendment; if not, it should be introduced as a new act.

Rule 103. Arrangement of Definitions

(a) Place a definition used throughout an act in the second section of the act, following the title. A defined term used only in another definition in the section is also placed in the section. The section heading is “Definitions” or, if there is only one defined term, “Definition”. If there is more than one definition, place a colon after the phrase “In this [act]” and tabulate the definitions, using paragraphs, with Arabic numbers, in alphabetical order. If there is only one definition, replace the colon with a comma and do not tabulate.

Examples

Section 2. Definitions

In this [act]:

(1) “Agent” means . . .

Section 2. Definition

In this [act], “agent” means . . .

(b) In an act with articles, if a definition is used only in a single article, place it in a separate section at the beginning of the article and not in the general definitions section in Article 1. Follow the other rules in (a).

Examples

Section 201. Definitions

In this [article]:

(1) “Agent” means . . .

Section 201. Definition

In this [article], “agent” means . . .

(c) If a definition is used only in a single section, place it in the first subsection of the section. Follow the other rules in (a). If an act is short, the definition may be located at the beginning of the act with other definitions.

Examples

Section 7. Enforcement

(a) In this section:

(1) “Complainant” means . . .

Section 7. Enforcement

(a) In this section, “complainant” means . . .

Rule 104. Sections and Subdivisions of Sections

(a) Use short sections.

(b) Use a separate section for each different topic.

(c) Number sections using Arabic numbers. For guidance on numbering, see Appendix B.

(d) “Section” and the section number and heading should be boldface, using initial capital letters for “section” and the words in the heading, except for a preposition or conjunction.

Example

Section 10. Rights of Beneficiary and Creditor

(e) Do not use an article, a pronoun, or the word “is” or “are” in a section heading.

<i>Do not say</i>	<i>Say</i>
Section 12. Delivery of a Document of Gift Is Not Required	Section 12. Delivery of Document of Gift Not Required

(f) A section heading gives general notice of the content of the section. Do not depend on or use a heading to add substance to a section. A heading generally is disregarded in construing a statute. Although a section heading need not be comprehensive, it should reflect accurately the content of the section as a whole. As the content is revised, make sure the heading remains accurate and consistent with the content.

(g) In a section with subsections, a term in a later subsection may depend on an earlier subsection for its meaning without specific reference back to the earlier subsection if the antecedent is clear.

For example, if subsection (c) provides “A dissolved limited liability company shall publish notice of its dissolution,” subsection (d) may provide “The notice must contain . . .” if the word “notice” in subsection (d) clearly refers only to the notice under subsection (c). If there is ambiguity, e.g., when the section refers to different notices, say “The notice required under subsection (c) must contain” to make clear which “notice” is the subject of subsection (d).

However, each section must be self-contained. For example, unless the term “notice” is a defined term, if Section 12 provides “A dissolved limited liability company shall publish notice of its dissolution. The notice must state . . .” and Section 15 specifies the manner of serving the notice, Section 15 must include a reference to Section 12, e.g., “A dissolved limited liability company shall serve the notice under Section 12 . . .”.

(h) If a noun phrase such as “statement of dissolution” is used, even if the noun phrase is a defined term, a subsequent reference to the phrase in the same section is made by using the principal noun alone, i.e., “statement”, unless doing so would create ambiguity.

Examples

A qualified patient may make a decision relating to life-sustaining treatment as long as *the patient* has the capacity to do so.

An agent for service of process appointed by a *limited liability company* or *foreign limited liability company* is an agent of the *company* for service of any process, notice, or demand required or permitted by law to be served on the *company*.

In the second example, using the single word “company” to refer back to “limited liability company or foreign limited liability company” makes the provision considerably more readable without diminishing clarity. The same rule applies in a section with subsections unless the shortened reference in a later subsection would be ambiguous or the context requires repetition of the full phrase.

Example

(a) A limited liability company is bound by and may enforce the operating agreement, whether or not the *company* itself has manifested assent to the agreement.

(b) A person that becomes a member of the *company* is deemed to assent to the operating agreement.

(i) Do not use a heading for a subdivision of a section, such as a subsection or paragraph.

(j) Divide a section into subsections and a subsection into paragraphs when the section or subsection covers a number of contingencies, alternatives, requirements, or conditions. A paragraph may be divided into subparagraphs. A subparagraph may be divided into clauses. If necessary, a clause may be divided into subclauses, but it is best to avoid using subclauses. Divide a section into several sections as an alternative to using subparagraphs or lower subdivisions. For designation of subdivisions, see Rule 105.

(k) Refer to a paragraph as “paragraph”, not as “subsection”. Paragraphs are used only in two situations:

(1) at the level immediately below a subsection; or

(2) at the level immediately below a section without subsections, as in a definitions section or tabulated list.

(l) Avoid numbering internal clauses in a nontabulated sentence. Rewrite the sentence so that the clauses are at the end and thus may be tabulated.

For examples applying these rules, see Appendix C.

Rule 105. Designation of Subdivisions of Section

Designate each subdivision of a section by a letter or number, in the following order:

(a) For a subsection, by a lower-case letter in parentheses.

(1) For a paragraph, by an Arabic number in parentheses.

(A) For a subparagraph, by an upper-case letter in parentheses.

(i) For a clause, by a lower-case Roman numeral in parentheses.

(I) For a subclause, by an upper-case Roman numeral in parentheses.

Rule 106. Series and Tabulations

(a) Break a sentence into its parts and present the parts in tabular form if this makes the meaning easier to comprehend. Consider using tabulation if a number of rights, powers, privileges, duties, or liabilities are granted to or imposed on a person. Tabulation may be helpful if the context precludes the use of short sentences. A provision that refers without tabulation to a series of items with qualifying language either at the beginning or end of the series may be ambiguous. Tabulation can eliminate the ambiguity by placing the qualifying language with the relevant tabulated item or in the introduction to the tabulation to apply to all items in the series.

(b) Avoid using a tabulation below the subparagraph level. A legislative drafting office might run the text together.

(c) Introduce a tabulated series with a phrase or sentence ending with a colon.

(d) Unless each item in a tabulated series is a complete sentence, the first letter of each item in the series is lower case and each item in the series ends with a semicolon, except the last item, which ends with a period. Only the next to last item in the series is followed by “or” to indicate a disjunctive series or “and” to indicate a conjunctive series.

(e) To indicate a disjunctive or conjunctive series when items in the series are not complete sentences, the introductory phrase of the series may indicate how many of the items in the series are to be required by inserting clarifying language before the colon, such as “any of the following”, “one of the following”, “all of the following”, or “one or more of the following”.

(f) If each item in a tabulated series is a complete sentence, the first letter of each item is capitalized and each sentence ends with a period. A tabulated series that consists of complete sentences may be preceded by a phrase such as “as follows”, “the following”, or “the following rules apply”. However, one of these phrases is not required. When each item in a tabulated series is a complete sentence, do not include “or” or “and” after the next-to-last complete sentence. An item in a tabulated series consisting of complete sentences may have more than one sentence.

Example

If an employee brings an action under Section 3:

- (1) The complaint must be verified.
- (2) The employee shall post the bond required by Section 4. The bond must be guaranteed.
- (3) The employee shall provide a copy of the complaint to the [Attorney General].

(g) Do not include in the last item of a tabulated series any language that is intended to qualify all the items. Place language intended to qualify all items in a tabulated series in the text immediately preceding the tabulated series.

(h) An undesignated trailing sentence or phrase after a tabulation should be used with caution. It is difficult to cross-reference or cite to a trailing sentence or phrase. It may be unclear whether the trailing sentence or phrase modifies only the last of the tabulated subdivisions or all of them. The trailing sentence or phrase may impair the structural or substantive clarity of the tabulation. For these reasons, it is preferable to place the language before the tabulation or draft it as a separate subsection, paragraph, or other subdivision.

A trailing sentence or phrase may be used only at the paragraph level and must appear as unnumbered text at the start of the left margin. The following legislative note must accompany a trailing sentence or phrase to inform the legislative drafter of the need to replicate the formatting exactly:

Legislative Note: *Replicate the formatting of the tabulated material in this section exactly to ensure that the meaning of the material is preserved.*

(i) A tabulated series in a subsection, or in a section without subsections, is set out in paragraphs, e.g., (1), (2), (3). A tabulated series in a paragraph is set out in subparagraphs, e.g., (A), (B), (C). See Rule 105 for lower subdivisions.

(j) If the introductory text and tabulated series comprise a single sentence, the introductory text and each individual paragraph, or lower subdivision, must constitute a coherent, grammatically correct sentence.

(k) Do not follow a subsection letter with a paragraph number if there are no words in between. For example, do not designate a subsection “(a)(1)” followed by paragraph (2) under the subsection. Such numbering may create ambiguity. Instead, these “paragraphs” should be designated as subsections.

<i>Do not say</i>	<i>Say</i>
(a) (1) An entity shall file an annual report in the form prescribed by the [Secretary of State]. (2) The entity shall file the report not later than June 30.	(a) An entity shall file an annual report in the form prescribed by the [Secretary of State]. (b) The entity shall file the report not later than June 30.

The same rule applies to lower subdivisions. For example, do not designate a paragraph as (1)(A) or a subparagraph as (A)(i).

Rule 107. Amending Existing Act

(a) When drafting an act that amends an existing uniform or model act, indicate deleted language with strikeout and new language with underscoring. If new language replaces language that is deleted, place the underscored new language after the language that is deleted.

<i>Example</i>
A tribunal of this state issuing <u>that issues</u> a child-support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction over to modify the order.

When it improves readability, strike out and underscore an entire block of text rather than displaying individual words and phrases in alternating strikeout, underscore, and plain text.

<i>Do not say</i>	<i>Say</i>
A tribunal of this state that issues a child-support order consistent with <u>under the other state law of this state</u> has and shall exercise continuing, exclusive jurisdiction over the order.	A tribunal of this state that issues a child-support order consistent with the law of this state has and shall exercise <u>under other state law</u> has continuing, exclusive jurisdiction over the order.

If use of strikeout and underscoring in a subdivision is so extensive that it makes the subdivision difficult to read, strike out the entire existing subdivision and underscore the entire subdivision that replaces it.

(b) Do not strike out or underscore a partial word. This makes the change difficult to read. Strike out or underscore the entire word, phrase, or section reference. When an entire word is substituted, insert a space between the stricken and underscored words. When adding or deleting a punctuation mark or bracket, strike out the adjacent word and underscore the word with the new punctuation or bracket.

<i>Do not say</i>	<i>Say</i>
a governmental agency	a government governmental agency
an entity is organized formed	an entity is organized <u>formed</u>
a limited partnerships	limited partnerships a limited partnership
Section 9-109(a)(1)(2)(A)	Section 9-109(a)(1)(A) 9-109(a)(2)(A)
be displayed,	be displayed <u>displayed</u> ,
a comma, it was	a comma , <u>comma</u> it was
in this [article]	in this article [article]
{the administrative procedure act}	{ the <u>the</u> administrative procedure aet act}

(c) The track changes function in a text-markup program may record the changes in a way other than strikethrough and underscoring. Before using track changes in a text-markup program, consult with the Style Committee liaison to ensure that the resulting text will indicate changes in strikethrough and underscoring in the style required by this rule.

Rule 108. Conforming Other State Law with Act

Enactment of an act may require repeal of, or a conforming amendment to, other state law. For example, enactment of Revised Article 1 of the Uniform Commercial Code – General Provisions required conforming amendments to several other provisions of the Uniform Commercial Code. The amendments need to be included in the bill adopting the act when the bill is introduced in the state legislature. A legislative note should explain the need for these conforming amendments, with suggested language for amendment of other uniform or model acts and, if possible, for other state law. See Rules 405 and 502.

Subpart B: Prefatory Note and Comments

Rule 121. Purpose and Content

(a) The reporter and chair of the drafting committee, in consultation with the members of the committee, are responsible for preparing a prefatory note and comments for the final act.

(b) A final act must include a prefatory note that introduces the reader to the subject matter of the act and the reason for its development and typically includes one or more of the following:

- (1) an overview of the structure and operation of the act;
- (2) the derivation of the act, for example, a state statute or another uniform or model act;

(3) policy choices reflected in the act, including the reason another approach was rejected or an issue not addressed;

(4) the effect of the act on, or its integration with, other law, including statutory and common law; and

(5) if the act amends an existing uniform or model act, an explanation of the reason for the amendment.

(c) A final act should include thorough comments on the text of the act, although a comment may not be necessary or appropriate for every section. A comment should not merely repeat the text of the act. A comment, such as one that includes one or more of the following, helps explain the intent and operation of a provision in the act:

(1) the derivation of the provision, for example, a state statute or another uniform or model act;

(2) the provision's purpose;

(3) policy choices reflected in the provision, including the reason another approach was rejected, or an issue not addressed;

(4) the effect of the provision on, or its integration with, other law, including statutory and common law;

(5) an explanation of how the provision is intended to operate in practice, which may include an example or hypothetical;

(6) the relation of the provision to the rest of the act, such as an explanation that an issue not addressed by the provision is addressed elsewhere in the act or other law;

(7) information about definitions and cross-references used in the provision, which may include a list of items covered by a defined term but considered to be more appropriate in the comment than in the text of the act;

(8) standard comment language required for some standard ULC provisions; and

(9) a form, if necessary. (For guidance in drafting a standard form, see Rule 607.)

(d) Draft a comment with the same care used to draft the text of the act. A state may treat the comment, or even enact it, as part of the act. A court may use a comment as persuasive authority to resolve an interpretation issue. Do not use a comment to resolve a substantive issue that should be resolved in the text of the act. The objective is to produce clear statutory text, and a comment cannot substitute for clarity in the text.

(e) A comment must be consistent with the text of the act. Careful and regular review for accuracy is important, since the text of an act changes during the drafting process and even

during final review by the Style Committee.

(f) Use the voice of the ULC for a comment in a final act, and direct it to the principal consumers of the act: legislative drafters, legislators, attorneys, regulated persons, and courts. During the drafting process a comment may be addressed to drafting committee members in the voice of the reporter or, when a draft act is being presented to the ULC at an annual meeting, to the ULC as a whole in the voice of the drafting committee.

Rule 122. Style

(a) The heading is “Prefatory Note” or “Comment” centered, in bold, and in Times New Roman 12 font.

(b) A prefatory note or comment is single spaced, with a double space between paragraphs. A paragraph is indented. Consider using topic designations, in bold and flush against the left margin. If numbering of paragraphs is helpful to the reader, use Arabic numbers.

(c) The grammar, punctuation, and other drafting rules in this manual, though intended for statutory text, in most cases will be useful for the prefatory note and comments.

(d) Use textual references rather than footnotes. Limit the use of references.

(e) Except for an Internet citation, use the form provided by the current Bluebook: A Uniform System of Citation.

(f) When possible, avoid using an Internet citation. The information on a website may change, and the address may become inaccessible quickly. If an Internet citation is necessary, use the form provided by the current Bluebook for the citation, but omit the URL from the text of the prefatory note or comment and include it instead as a hyperlink. For example: Unif. L. Comm’n, Drafting Rules and Style Manual (2022 ed.).

(g) Reference to an objective and reliable study, survey, or statistic may help explain a position taken in the act. However, include such references sparingly, and indicate the date of the study, survey, or statistic.

(h) Set an example or hypothetical apart from the rest of the text of a comment so that it stands out to the reader. Consider using Arabic numbers or short descriptive phrases when including multiple examples or hypotheticals for the same provision.

Rule 123. Process

(a) Drafting committee participants, especially members and observers with expertise in the subject matter of the act, are the best resources for helping the reporter and chair prepare the prefatory note and appropriate comments. Encourage drafting committee participants to review the prefatory note and comments in each draft with the same thoroughness with which they review the text of the act. This will help ensure that typographical errors, substantive errors, and inconsistencies between the text of the act and the prefatory note and comments are detected and

corrected throughout the process.

(b) Occasionally, a concern raised during a drafting committee meeting or an annual meeting may be addressed more appropriately in a comment than in the text of the act. Use a comment only when the language being added meets the guidelines established in Rule 121. A member of the drafting committee should keep a running list of issues dealt with in this manner. The list should be circulated to all committee members with each new draft and included in materials posted on the page of the ULC website dedicated to the committee. If an item on the list is not addressed, the list should include an explanation.

(c) The Style Committee does not edit the prefatory note or comments. After approval of a final act at an annual meeting and revision of the prefatory note and comments, but before the act with comments is published, a subcommittee that includes the ULC division chair for the act conducts a thorough final review of the prefatory note and comments for adherence to the rules in this subpart. A comment may be revised after final approval of the act until the act is first published. After publication, a comment may be revised only in accordance with the ULC Committee Procedure Manual.

(d) The ULC division chair for an act monitors the prefatory note and comments for compliance with this subpart.

Part 2

Internal and External References

Rule 201. Cross References

(a) When referring to another provision of the act, cite to the most specific part of the act possible, for example, “under Section 4(a)”. An overly broad reference, such as “subject to the other provisions of this [article]”, is not helpful. An overly broad reference forces the reader to review more text than necessary.

(b) Do not use “the provisions of” when referring to an act or its provisions.

<i>Do not say</i>	<i>Say</i>
subject to the provisions of Section 2	subject to Section 2
under the provisions of [cite to the Uniform Probate Code]	under [cite to the Uniform Probate Code]

The phrase “the provisions of” adds nothing to “Section 2” or “the Uniform Probate Code”. However, it is permissible to say “the *procedural* provisions of Section 2” or “the *intestacy* provisions of the Uniform Probate Code” because the phrase refers to a subset of Section 2 or of the Uniform Probate Code. See also Rules 203 and 204.

(c) Use “under” to mean compliance with law. Other phrases, such as “in accordance with”, “pursuant to”, and “as provided in” should not be used.

<i>Do not say</i>	<i>Say</i>
The state shall give notice <i>as provided in</i> Section 405.	The state shall give notice <i>under</i> Section 405.
The agency shall adopt rules <i>in accordance with</i> [cite to state administrative procedure act].	The agency shall adopt rules <i>under</i> [cite to state administrative procedure act].

(d) Do not use “above”, “below”, “preceding”, “following”, or “next” to make an internal reference within an act.

(e) Do not use “with reference to”, “pertaining to”, “regarding”, “with respect to”, or “as to”. Instead use “relating to”. In an appropriate circumstance, “concerning” or “affecting” is permissible.

(f) Do not use the phrase “applicable law”. If action is required by law, the law by definition is applicable.

Rule 202. Limitations and Qualifications

(a) To be readily noticed, a limitation on the applicability of a provision by another provision of an act should be placed at the beginning of the subordinated provision. The subordinated provision should refer to the dominant provision.

Examples

Except as provided in Section 201(a), the following rules apply:...

Subject to Section 201(a), an agent may receive service of process for an entity.

(b) Use the phrase “except as provided” to indicate that the rule stated in the subordinated provision is limited by the dominant provision. Use the phrase “subject to” to indicate that the dominant provision, though it does not limit or qualify the subordinated provision, provides other criteria that should be considered in applying the subordinated provision.

(c) If a provision states a default rule that is subordinate to a contrary provision in a contract, instrument, or similar document, reference to the document should be made at the beginning of the provision.

Examples

Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust.

Except as provided in the agreement, each member has one vote.

(d) Do not use “notwithstanding” to express a limitation on a general provision of the same act.

<i>Do not say</i>	<i>Say</i>
<p>(a) An entity that does not file an annual report before the deadline is dissolved.</p> <p>(b) <i>Notwithstanding</i> subsection (a), an entity that is dissolved may be reinstated by complying with subsection (c).</p>	<p>(a) <i>Subject to</i> subsection (b), an entity that does not file an annual report before the deadline is dissolved.</p> <p>(b) An entity that is dissolved may be reinstated by complying with subsection (c).</p>

(e) If a provision of an act is limited by a condition that may not occur, use “if” to introduce the condition, not “when” or “where”.

<i>Do not say</i>	<i>Say</i>
<i>When</i> an agent changes its address, it shall notify the principal	<i>If</i> an agent changes its address, it shall notify the principal.
<i>Where</i> a blank in a negotiable receipt has been filled in without authority, a good-faith purchaser for value may treat the insertion as authorized.	<i>If</i> a blank in a negotiable receipt has been filled in without authority, a good-faith purchaser for value may treat the insertion as authorized.

(f) Use “when” only to indicate a particular time.

<i>Examples</i>
<i>When</i> this section takes effect, the court shall dismiss all pending proceedings.
“Goods” means all things that are movable <i>when</i> a security interest attaches.

(g) Use “where” only to indicate a particular place.

<i>Example</i>
“Principal office” means the office <i>where</i> the principal executive office of an entity is located.

(h) Do not use “provided that”, “provided however that”, “except that”, or a similar phrase. Instead state the qualification in a separate sentence or use a plain-English connector such as “if” or “but”.

(i) Include a negative sentence or phrase only if there is an unintended or reasonably inferable implication of a provision of an act.

<i>Example</i>
“Attorney” means a person retained to represent the creditor. The term does not include an attorney-in-fact.

Without the negating sentence in the example, one reasonably could infer that an attorney-in-fact is within the scope of the definition of “attorney”.

Rule 203. Reference Within Same Section

(a) Refer to another subdivision in the same section by the name of the subdivision necessary to identify it. Do not include the word “section” in the reference.

Examples

Refer to a subsection in the same section as:

(a) Except as provided in *subsection (b)*, . . .

Refer to a paragraph in the same subsection, or in a section that does not have subsections, as:

(1) Except as provided in *paragraph (2)*, . . .

Refer to a paragraph in a different subsection as:

(a) Notice under *subsection (b)(1)* must be given . . .

Refer to a subparagraph in a different paragraph of the same subsection as:

(1) Notice under *paragraph (2)(A)* must be given . . .

Refer to a subparagraph in a different subsection as:

(a) Notice under *subsection (b)(2)(A)* must be given . . .

(b) In a reference to another subdivision in the same section, do not include the section number before, or “of this section” following, the reference. These are superfluous.

<i>Do not say</i>	<i>Say</i>
Section 3. Scope (a) Except as provided in Section 3(b), . . .	Section 3. Scope (a) Except as provided in <i>subsection (b)</i> , . . .
Section 3. Scope (a) Except as provided in subsection (b) of this section, . . .	Section 3. Scope (a) Except as provided in <i>subsection (b)</i> , . . .

Rule 204. Reference to Another Section

(a) Refer to another section of the act only by the section number. For example, do not add the phrase “of this [act]” after “Except as provided in Section 17”. Begin a reference to a subsection, or lower subdivision, in another section with the Section number.

<i>Do not say</i>	<i>Say</i>
Except as provided in paragraph (1) of subsection (a) of Section 17 of this act, the following rules apply: . . .	Except as provided in Section 17(a)(1), the following rules apply: . . .

(b) If a reference is to more than one subdivision of another section, do not include the higher subdivision in the second or subsequent subdivision.

<i>Do not say</i>	<i>Say</i>
Section 17(a) and (b)	Section 17 <i>{if Section 17 contains only subsections (a) and (b)}</i>
Section 17(a)(1), (a)(2), and (b)	Section 17(a) and (b) <i>{if Section 17(a) contains only paragraphs (1) and (2)}</i>
Section 17(a)(1), (a)(2), and (b)	Section 17(a)(1) and (2) and (b) <i>{if Section 17(a) contains a paragraph after paragraph (2) and the section contains a subsection after subsection (b)}</i>
Section 17(a)(1)(A), (1)(B), and (1)(C)	Section 17(a)(1)(A) through (C), <i>{if Section 17(a)(1) contains a subparagraph after subparagraph (C)}</i>
Section 17(a)(1)(A), (1)(B), and (1)(C)	Section 17(a)(1) <i>{if Section 17(a)(1) contains only subparagraphs (A) through (C)}</i>

Rule 205. Reference to Another Uniform Act

(a) If a citation to another uniform act is required, cite the full name of the act in brackets. Include a reference to a specific section, if necessary.

<i>Example</i>
“Settlor” has the meaning in [cite to Uniform Trust Code Section 103(15)].

(b) If there is more than one reference to a uniform act in a section or legislative note, spell out the first reference to the act in the section or note. A subsequent reference in the section or note may be to “that act” if confusion will not result.

(c) Do not use an acronym for a uniform act in a bracketed citation or legislative note.

Rule 206. Reference to Other State Law

(a) Refer to a specific provision of state law.

<i>Do not say</i>	<i>Say</i>
Except as provided in other law of this state, . . .	Except as provided in [cite to state public records act], . . .

(b) Do not refer to other state law unless the reference is essential to the operation of the act.

(c) Sometimes a general reference to other law is necessary. Use the following general references:

(1) Use “other law” if the reference is intended to include both federal and state law, including the law of another state.

(2) Use “law of this state” if the reference is intended to include the act itself as well as other law of the state.

(3) Use “other law of this state” if the reference is intended to exclude the act itself but include other law of the state.

Rule 207. Reference to Federal Law

(a) An act may include a reference to federal law. In many acts, it is not necessary to include a reference to federal law in the text of the act. A reference to a federal law that may have an effect on the act is best left to the comments. One general exception is the need in many acts to refer to the Electronic Signatures in Global and National Commerce Act to avoid federal preemption. See Rule 402.

(b) A reference to a federal act should include the official short title of the act, if any, and a citation to the act. Cite to the United States Code if the citation is available. If a United States Code citation is not available, cite to the Public Law number. If a Public Law number is not available, cite to the Statutes at Large. The official citation may not be omitted, even for a law that has a popular name, such as the Internal Revenue Code. The citation must be preceded by a comma and not placed in parentheses.

Examples

Section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. Section 501(c)(3)

Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101 et seq.

Section 3324 of the Public Documents Act, 44 U.S.C. Section 3324

Budget Control Act of 2011, Pub. Law 112-25

(c) If a section of an act contains numerous references to a federal statute, the short title must be given the first time the statute is cited and may be omitted in subsequent references in that section.

(d) In the text of the act, spell out the words “Section” or “Sections” when citing to the United States Code rather than using the section symbol, even though the drafting rules or practices of some states will require use of the section symbol. The section symbol may be used in the comments.

(e) In a general citation to a federal statute, include the first section codified in the United States Code followed by “et seq.”.

Example

Employment Retirement Income Security Act, 29 U.S.C. Section 1001 et seq.

(f) If a federal law is cited, specify whether the intent is to incorporate future amendments to the federal law. If the intent is to incorporate future amendments, add “[, as amended]”. If the intent is not to incorporate future amendments, add “[, as in effect on [the effective date of this [act]]]”.

The following legislative note language should be used when a provision of federal law is cited with the intent to incorporate future amendments, e.g., “11 U.S.C. Section 101 et seq.[, as amended]”:

Legislative Note: *It is the intent of this act to incorporate future amendments to the cited federal law. A state in which the constitution or other law does not permit incorporation of future amendments when a federal statute is incorporated into state law should omit the phrase “, as amended”. A state in which, in the absence of a legislative declaration, future amendments are incorporated into state law also should omit the phrase.*

The following legislative note language should be used when a provision of federal law is cited with the intent not to incorporate future amendments, e.g., “11 U.S.C. Section 101 et seq.[, as in effect on [the effective date of this [act]]]”:

Legislative Note: *It is the intent of this act not to incorporate future amendments to the cited federal law. A state in which the constitution or other law does not permit incorporation of future amendments should omit the phrase “, as in effect on [the effective date of this [act]]” as unnecessary. A state in which, in the absence of a legislative declaration, future amendments are incorporated into state law should include the phrase.*

(g) Do not include a general reference to regulations adopted under federal law. For example, do not say “Americans with Disabilities Act of 1990 [and regulations adopted under the Act]”. A reference to the requirements of a statute impliedly includes the requirements of a regulation adopted under that statute.

(h) Do not include a citation to a specific federal regulation in the text of an act unless necessary. Federal regulations often are amended or recodified. Do not include a citation to a proposed federal regulation because it may not be finalized.

Part 3

Definitions and Standard Provisions

Rule 301. Drafting Definitions

(a) A defined term can be a single word or a phrase. Define a term if:

(1) it may have more than one meaning and a definition is necessary to preclude an unintended construction;

(2) it is used in a sense other than common usage; or

(3) its use avoids excessive repetition of a longer phrase.

(b) If a defined term is used only in one place in an act, it may be preferable to set out the substance of the term rather than using a definition.

<i>Questionable</i>	<i>Consider</i>
(a) In this section, “complainant” means a person seeking to recover compensation for lost wages. (b) A complainant must file a complaint not later than one year after the loss occurs.	A person seeking to recover compensation for lost wages must file a complaint not later than one year after the loss occurs.

(c) If a definition is intended to exhaust the meaning of a term, use “means”. In an exhaustive definition, avoid using the term itself in the definitional language. There are two exceptions to this general rule:

(1) If the defined term is used in a narrower sense than the ordinary meaning of the word, the word may be used in the definition.

<p style="text-align: center;"><i>Example</i></p> <p>“Instrument” <i>means</i> a negotiable instrument.</p>

(2) Part of a defined term consisting of more than one word may be used in the definition.

<p style="text-align: center;"><i>Example</i></p> <p>“Principal amount of the <i>debt</i>” means the amount of a <i>debt</i> at the time of an agreement.</p>

(d) If a definition contains all the possible meanings of a term, end the series with “or”.

Example

“Tribunal” *means* a court, agency, *or* other entity authorized to establish, enforce, *or* modify a child-custody determination.

(e) Use “includes” if a definition is not intended to exhaust the meaning of a term but to give examples. End the series with “and” if more than one item is listed.

Example

“Transfer” *includes* mortgage, encumbrance, *and* transfer by operation of law.

(f) The meaning of a defined term may be expanded to contain one or more additional meanings by using “includes” in the qualifying language. If the definition contains more than one additional meaning, end the series with “and”.

Examples

“Wages” means compensation paid by an employer. The term *includes* gratuities received by an employee.

“Wages” *includes* gratuities received by an employee.

“Wages” means compensation paid by an employer. The term includes health benefits *and* gratuities.

(g) Do not follow the word “including” with the phrase “but not limited to”. The phrase is superfluous because the word “including” means the list is nonexclusive.

(h) The meaning of a defined term may be narrowed by adding a qualifying sentence or phrase.

Examples

“Wages” means compensation paid by an employer. The term *does not include* health benefits.

“Wages” means compensation paid by an employer, *but does not include* gratuities.

(i) If a term is used in a sense different from the defined meaning, or is used as more than one part of speech, a limitation to the definition should be added immediately after the term.

Examples

“Record”, *used as a noun*, means information:

(A) inscribed on a tangible medium; or

(B) stored in an electronic or other medium and retrievable in perceivable form.

“Statement”, *in relation to a financial record*, means the annual accounting document under Section 5.

(j) If a defined term consists of more than one word, capitalize only the first word in the definition unless the word is a proper noun. Do not capitalize a defined term when used other than in the definition.

Rule 302. Use of Definitions

(a) Do not define more than one form of a word, such as “writing” and “written”. It is generally clear that a definition applies to other forms of the word. If necessary for clarity, add a sentence stating that the other form of the word has a corresponding meaning.

Example

“Not appear” means fail to appear in court as required without the intent to avoid or delay adjudication. “Nonappearance” has a corresponding meaning.

(b) Do not use two defined terms to mean the same thing, such as “physician” and “medical doctor”. Choose a single term. See also Rules 705(a) and 801(c).

(c) Use the defined term, not its definitional language. For example, if “certificate” is defined to include an amended or restated certificate, in other parts of the act do not say “a certificate or amended or restated certificate”, say “certificate”. However, if a provision is intended to apply only to a restated certificate, it is appropriate to say “restated certificate”.

(d) Do not use a defined term in a sense that differs from the definition. For example, if “jurisdiction” is used in the sense of a political entity, do not use the same word to mean the scope of power of a court. If this is unavoidable, qualify the definition. See Rule 301(h) and (i).

(e) Do not include a substantive provision in a definition. For example, in a definition of “termination”, it is improper to add the following sentence: “On termination, an obligation that is still executory is discharged.” The sentence is substantive law, not definitional. Move it to a substantive provision in the act.

(f) A term must be defined so that the sentence is grammatically correct if the definition is substituted for the defined term in the text of the act.

<i>Do not say</i>	<i>Say</i>
“Effective” means that the record is valid under Section 5.	“Effective” means valid under Section 5.

In the example, only the correct construction can be properly substituted for the adjective “effective” in the sentence, “If effective, the power of attorney may be exercised without further authentication.”

(g) If appropriate under Rule 104(h), it is acceptable to shorten a defined phrase after its first use in a subsection. The defined phrase should be set out in full if needed for clarity.

<i>Examples</i>
The <i>internal income of a separate fund</i> {defined term} may be used if the <i>income</i> is unrestricted.
On a person’s request for <i>criminal-history-record information</i> {defined term}, the central repository shall provide the person a copy of the <i>information</i> .

(h) Use a computer search to check the use of each defined term in an act. Make sure each defined term is used in the act and only with the defined meaning. This is particularly important when revising an act.

Rule 303. “Electronic”, “Record”, “Sign”

(a) Use the following definition of “electronic”:

“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(b) Use the following definition of “record”:

“Record” means information:

(A) inscribed on a tangible medium; or

(B) stored in an electronic or other medium and retrievable in perceivable form.

However, if “record” is used in an act as both a noun and a verb, begin the definition:

“Record”, used as a noun, means information:...

(c) Use the following definition of “sign”:

“Sign” means, with present intent to authenticate or adopt a record:

(A) execute or adopt a tangible symbol; or

(B) attach to or logically associate with the record an electronic symbol, sound, or process.

The standard definition of “sign” may be modified as follows:

(1) If “record” is not used in the act, but “document” or “instrument” is used instead, the word “document” or “instrument” may be substituted for the word “record” in the definition of sign.

(2) If “execute” is a defined term that includes delivery, a synonym for “execute”, such as “make”, may be used in the definition.

Rule 304. “Person”

Use the following definition of “person”:

(1) If the intention is to include a government or governmental subdivision, agency, or instrumentality in the definition:

“Person” means an individual, estate, business or nonprofit entity, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(2) If the intention is not to include a government or governmental subdivision, agency, or instrumentality in the definition:

“Person” means an individual, estate, business or nonprofit entity, or other legal entity. The term does not include a government or governmental subdivision, agency, or instrumentality.

When definition (2) is used, include the following Comment: “The reference to “instrumentality” in the phrase “governmental subdivision, agency, or instrumentality” includes a corporation or other entity created by a government.”

(3) If the intention is to treat a protected series as a person, add the following sentence to the definition in paragraph (1) or after the first sentence of the definition in paragraph (2):

The term includes a protected series, however denominated, of an entity if the protected series is established under law that limits, or limits if conditions specified under law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series.

The Uniform Protected Series Act provides that although a protected series is not an entity, it is a person under that act. A drafting committee should consider whether a protected series should be treated as a person under its act. One enacting state may authorize protected series under its law,

but another enacting state may not. The task of the drafting committee is to determine only whether a protected series, whether organized under the law of the enacting state or the law of another state, should be treated by each enacting state as a person under the act. That determination will depend on the underlying policy considerations applicable to the act. If the committee includes protected series in the definition of “person”, it should add a legislative note that explains why an enacting state should include in its definition a protected series that is authorized by the law of another state even if the enacting state does not authorize protected series under its law. The legislative note also should state that if an enacting state does not authorize protected series under its law, inclusion of a protected series in the definition of “person” in the act does not require the state to recognize a limit on liability of a protected series organized under the law of another state or a limit on liability of the entity that established the protected series, unless the act expressly addresses the issue.

Rule 305. “State”, “Political Subdivision”

(a) Use the following definition of “state”:

“State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States.

If it is intended that a state agency or instrumentality be included when reference is made to the “state”, add the following sentence to the definition:

The term includes an agency or instrumentality of the state.

If it is intended that Indian tribes be included when reference is made to the “state”, add the following sentence to the definition:

The term includes a federally recognized Indian tribe.

(b) Use the following definition of “political subdivision of this state”:

“Political subdivision of this state” includes a city, [county,] district, and any other local or regional governmental authority.

Include the following legislative note:

Legislative Note: *A state that uses a different term for “county” should insert that term in the brackets. If a state does not have a governmental unit corresponding to a county, it should delete the bracketed term.*

Rule 306. Scope

A scope provision should describe the subject matter of the act and, under Rule 101(d), be placed near the beginning of the act.

Example

Section 3. Scope

This [act] applies in a civil action to a [cause of action] asserted against a person based on the person's:

- (1) communication in a legislative, executive, judicial, administrative, or other governmental proceeding;
- (2) communication on an issue under consideration or review in a legislative, executive, judicial, administrative, or other governmental proceeding; or
- (3) exercise of the right of freedom of speech or of the press, the right to assemble or petition, or the right of association, guaranteed by the United States Constitution or the [state] Constitution, on a matter of public concern.

Rule 307. Governing Law

An act that specifies governing law should do so in the following manner:

<i>Do not say</i>	<i>Say</i>
The <i>court shall apply</i> the law of this state to the matter.	The law of this state <i>governs</i> the matter.
The matter <i>is determined by</i> the law of the jurisdiction of most significant contacts.	The law of the jurisdiction of most significant contacts <i>governs</i> the matter.
The proceeding must be conducted <i>in accordance with</i> the procedural law of this state.	The procedural law of this state <i>governs</i> the proceeding.

Rule 308. Notice

(a) If a provision requiring notice is included, the drafter should consider the purpose of the notice, how it is to be given, and by whom. States may have general notice provisions that are adequate and need not be replicated. For example, if the manner of giving notice is to be the manner in which process is served in a civil action, the act generally can omit specific instruction, since every state has a provision governing the manner of service of process.

(b) Below is a model notice provision. The drafter should expand or contract the provision, depending on the nature of the notice to be given.

Example

Section 14. Notice

(a) Except as provided in subsections (b) and (c), the following rules apply to notice under this [act]:

(1) Notice may be given by delivery in the manner provided by law for service of process in a civil action. Notice under this paragraph is effective on delivery.

(2) Notice may be given by deposit with the United States Postal Service, first-class postage paid, addressed to the person to be notified at the person's last-known address. Notice under this paragraph is effective three days after deposit.

(3) If the person to be notified agrees to delivery by electronic means, notice may be given by transmission in the manner provided in [cite to Uniform Electronic Transactions Act Section 15]. Notice under this paragraph is effective when received under [cite to Uniform Electronic Transactions Act Section 15].

(4) Notice may be given by delivery by an established professional courier or other commercially reasonable delivery service, cost of delivery paid, that certifies the delivery was made in a manner equivalent to service of process. Notice under this paragraph is effective on delivery.

(b) If a person giving notice and the person to be notified agree to a method of giving notice that must be used, notice must be given in accordance with the agreement. Notice may be waived by the person to be notified.

(c) Notice given in compliance with this section is effective even if not received by the person to be notified. Notice received by the person to be notified is effective even if not given in compliance with this section.

Legislative Note: In paragraph (a)(3) the state should cite to the state's version of the Uniform Electronic Transactions Act or comparable state law.

Rule 309. Provisions Relating to Litigation

(a) An act that authorizes a claim for relief should state that the injured person "has a cause of action".

<i>Do not say</i>	<i>Say</i>
gives rise to a cause of action	has a cause of action
may bring an action	has a cause of action
may initiate an action	has a cause of action
may file an action	has a cause of action
may maintain an action	has a cause of action
may bring a judicial proceeding	may commence an action
may petition the court	may request the court
may move the court	may request the court
may ask the court	may request the court

(b) States have general statutes of limitation that cover most causes of action. An act should not include a statute of limitations unless there is good reason to do so, for example, the type of relief created in an act defies easy categorization or there is a need for a limitation that differs from standard limitation periods.

If including a statute of limitations is appropriate, it should be in one of the following general forms, in brackets, and accompanied by a legislative note:

[Section 15. Statute of Limitations

(a) An action under this [act] must be commenced not later than three years after the violation.

(b) The limitation period in this section is subject to law of this state otherwise applicable to a limitation period, including tolling.]

Legislative Note: *A state should determine whether its current limitations law adequately covers the remedy created by this act and, if not, include this section.*

or

Section 15. Remedies

(a) . . .

(b) . . .

[(c) An action under this section must be commenced not later than three years after the violation. The limitation period in this section is subject to law of this state otherwise applicable to a limitation period, including tolling.]

Legislative Note: *A state should determine whether its current limitations law adequately covers the remedy created by this section and, if not, include subsection (c).*

(c) Use the following general format to provide that a person’s actions subject the person to personal jurisdiction:

A person submits to personal jurisdiction in this state by submitting an application

under Section 3.

(d) Use the following general format to provide for compensation or other relief under the act.

A person injured by a violation of this [act] has a cause of action for damages and other appropriate relief.

The provision may be adjusted, and may provide greater specificity, depending on the content of the act.

(e) Use the following general format to provide for statutory damages for a violation:

In an action under this [act], a prevailing plaintiff may recover statutory damages of \$[10,000] against each defendant found liable under this [act]. In determining the amount of statutory damages, consideration must be given to {list factors} and other aggravating or mitigating factors.

If statutory damages are to vary depending on the seriousness of an offense, the drafter should include guidance in the provision on issues such as who may award the damages (court, arbitrator), to whom the damages may be awarded (injured party, the state), whether the damages are mandatory or permissive, and the factors that determine the amount of the damages.

(f) Generally, the “American rule” that each party bears its own attorney’s fees and other litigation expenses will apply to an act. Nothing needs to be said about attorney’s fees unless the drafter wishes to reverse the American rule.

Depending on the extent to which the drafter wishes to reverse the American rule, the act should describe the expenses to be awarded as follows: “reasonable attorney’s fees, court costs, and other reasonable litigation expenses”. The drafter should be aware that “court costs” refers to chargeable or taxable court costs allowed in the statutes and court rules of the state and “other reasonable litigation expenses” refers to additional amounts that are not attorney’s fees or court costs but are expense items allowed by statute or court rule, such as copying costs of depositions, travel expenses, and fees of an expert witness.

The drafter should consider the following issues when adding a provision to an act that would change the American rule:

(1) What authority may award attorney’s fees – a court, arbitrator, tribunal, or other authority?

(2) What is the amount of fees that may be awarded? Should the amount be “reasonable attorney’s fees”?

(3) Should the act allow for other litigation costs, including communication,

investigation, witness, travel, and other expenses associated with the litigation?

(4) Should an award be limited to a prevailing plaintiff or allowed to any prevailing party?

(5) Should the act include specific limitations on awarding fees?

(g) When referring to court action, be aware of the difference between a court finding, which is a finding of fact, and a court determination, which is a legal conclusion. Be aware also of the difference between the court issuing an order, which is a judicial action, and entering an order, which is a ministerial act frequently performed by the court clerk.

If possible, state a court's actions directly, as in the examples below. If that is not possible, say that a court issues an order or judgment, rather than that it makes or renders an order or judgment. "Issues" is preferable because it works well for both orders and judgments.

<i>Questionable</i>	<i>Preferable</i>
The court shall render an order...	The court shall order...
The court shall make an order dismissing...	The court shall dismiss...
The court shall issue a judgment awarding...	The court shall award...

(h) An act that limits liability, for example by excusing good-faith compliance or by immunizing a person from vicarious liability, should express the limitation in the following manner:

Section 6. Limitation of Liability

A person is not liable for a violation of this [act] if ...

Rule 310. Administrative Law Considerations

(a) If a drafting committee determines it is necessary to provide a state agency with discretionary authority to adopt administrative rules, the committee should specify the authority to be granted to the state agency, such as the authority to administer, enforce, implement, or interpret the act. Use the following text and legislative note:

[Section 8. Rulemaking Authority

The [agency] may adopt rules under [cite to state administrative procedure act] to {drafting committee should specify the authority granted, such as to administer, enforce, implement, or interpret} this [act].]

Legislative Note: A state should include this section only if the state's administrative procedure act does not provide adequate rulemaking authority to the state agency.

(b) If a drafting committee determines it is necessary to require a state agency to adopt administrative rules, the committee should specify the authority to be granted to the state agency, such as the authority to administer, enforce, implement, or interpret an act. Use the following text without a legislative note:

Section 8. Rulemaking Authority

The [agency] shall adopt rules under [cite to state administrative procedure act] to {drafting committee should specify the authority granted, such as to administer, enforce, implement, or interpret} this [act].

(c) If a drafting committee determines it is necessary to provide a state agency with the authority to enforce provisions of an act, use the following text:

Section 9. Enforcement

The [agency] shall enforce this [act].

(d) If a drafting committee determines it is necessary to provide a state agency with the authority to adjudicate a matter, use the following text and legislative note:

[Section 10. Adjudication in [Contested Case]

The [agency] shall adjudicate a [contested case] under this [act]. The adjudication must comply with [cite to state administrative procedure act].]

***Legislative Note:** A state should include this section only if the state’s administrative procedure act does not provide adequate authority to the state agency to adjudicate a contested case.*

The state should include the term for “contested case” used in the state’s administrative procedure act.

(e) This rule presumes a drafting committee has determined the rulemaking, enforcement, or adjudicatory authority applies to the whole act. If the committee determines the authority should apply only to a part of the act, the committee should replace “this [act]” in these examples with a reference to the part of the act to which the authority extends.

(f) If a drafting committee determines it is necessary to delegate authority to a state agency to create a form, see Rule 607(a).

Part 4

Concluding Provisions

Rule 401. Uniformity of Application and Construction

To foster uniformity after enactment, include the following provision in a uniform act but not in a model act:

Section 10. Uniformity of Application and Construction

In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

Rule 402. Electronic Records and Signatures

The federal Electronic Signatures in Global and National Commerce Act, popularly known as “E-Sign”, largely tracks the Uniform Electronic Transactions Act and preempts a state law that attempts to regulate electronic records and signatures unless the state law contains particular language. See 15 U.S.C. Section 7002(a)(2)(B).

In order to take advantage of the exception to preemption provided in the federal law, if an act contains a provision directly or indirectly requiring a notice, another record, or a signature, whether electronic or written, it should include the following provision and legislative note:

Section 11. Relation to Electronic Signatures in Global and National Commerce Act

This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq.[, as amended], but does not modify, limit, or supersede 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Section 7003(b).

Legislative Note: It is the intent of this act to incorporate future amendments to the cited federal law. A state in which the constitution or other law does not permit incorporation of future amendments when a federal statute is incorporated into state law should omit the phrase “, as amended”. A state in which, in the absence of a legislative declaration, future amendments are incorporated into state law also should omit the phrase.

The legislative note may be omitted if it appears earlier in the act. See Rule 502.

Rule 403. Saving Provision, Transitional Provision

(a) Use a saving provision to indicate that an act does not apply to a specified situation or invalidate a transaction that occurred before the effective date of the act.

Example

Section 29. Saving Provision

This [act] does not affect the validity or effect of a notarial act performed before [the effective date of this [act]].

(b) Use a transitional provision to indicate whether the act applies before, on, or after enactment if uncertainty might exist otherwise.

Examples

Section 29. Transitional Provision

This [act] applies to an easement created before, on, or after [the effective date of this [act]].

Section 29. Transitional Provision

This [act] applies to an action filed or cause of action asserted in an action on or after [the effective date of this [act]].

Section 29. Transitional Provision

This [act] applies to an arrest made[, [a citation] issued,] or a release or detention hearing held on or after [the effective date of this [act]], including a hearing to enforce, modify, or vacate a release or detention order entered before [the effective date of this [act]].

Rule 404. Severability

If a severability provision is considered necessary because of a risk that one or more provisions of the act may be declared unconstitutional or otherwise invalid and it is intended that the remainder of the act continue in effect if that occurs, include the following provision and legislative note:

[Section 11. Severability

If a provision of this [act] or its application to a person or circumstance is held invalid, the invalidity does not affect another provision or application that can be given effect without the invalid provision.]

Legislative Note: Include this section only if the state lacks a general severability statute or a decision by the highest court of the state adopting a general rule of severability.

The section is in brackets because it is unnecessary for a state to include a severability provision if it has either a general severability statute or a decision by the highest court stating a general rule of severability.

Rule 405. Repeals and Conforming Amendments

If enactment of the act requires the repeal or amendment of one or more other statutes, the repeals or amendments should be included in the following section, in brackets:

[Section 12. Repeals; Conforming Amendments

(a) . . .

(b) . . .]

Include a legislative note such as the following to provide guidance to the legislative drafter:

***Legislative Note:** A state should examine its statutes to determine whether conforming revisions are required by provisions of this act relating to { }. See Section { }.*

Rule 406. Effective Date

The last section of each uniform or model act is the effective date section. Use the following text:

Section 13. Effective Date

This [act] takes effect . . .

Do not use the effective date section to state whether the act applies to matters occurring before, on, or after the effective date. This should be addressed in a saving provision or transitional provision. See Rule 403.

Part 5

Optional Provisions

Rule 501. Use of Brackets

(a) To indicate that a choice is given to the enacting state in adopting or omitting language, place the language affected by the choice within brackets and add a legislative note at the end of the section to describe the choice. See Rule 502.

(b) Brackets often are used for numbers, e.g., years, days, hours, or dollar amounts. Enclose only the option in brackets. When a number is required, suggest a specific number. Do not include a blank or a line within the brackets.

<i>Do not say</i>	<i>Say</i>
[30 days] <i>{when the drafting committee intends that the period must be stated in days and not months or years}</i>	[30] days
[\$1,000]	[\$1,000]
[] days	[30] days

(c) Place a reference to the act itself in brackets except in the title of the act and the section on uniformity of application and construction. See Rule 401.

<i>Example</i>
In this [act]:

The same rule applies to articles:

<i>Example</i>
In this [article]:
Except as provided in [Article] 3, . . .

(d) Text may be placed in brackets to indicate that the bracketed language is suggested but may be changed to conform to state usage or requirements or to indicate that the bracketed language is optional. If feasible, place optional text at the end of an article, section, or tabulation. For example, if a section has two required subsections and one optional subsection, it is best to designate the optional subsection as subsection (c) so that its omission does not require redesignation of the other subsections. However, in this example, if the optional subsection must be designated as subsection (a), do not bracket the designations of subsections (b) and (c) as

“[(a)] [(b)]” and “[(b)] [(c)]”. Bracketing those designations makes the act more difficult to read.

The same rule applies to an optional section or article. If there is an optional section in an act without articles or, in an act with articles, an optional section that cannot be placed at the end of an article, do not bracket the section numbers of subsequent sections. If an act has an optional article, do not bracket the article numbers of subsequent articles.

Rule 502. Legislative Notes

(a) If it is necessary to provide guidance to a legislative drafter in preparing an act for enactment in a state, use a legislative note. For example, a legislative note is needed if the drafter must select among alternatives or include conforming amendments. If an act includes a bracketed option to indicate a choice to be made by the enacting state, a legislative note ordinarily is needed to explain the choice.

A legislative note is unnecessary when the choice required is obvious to the legislative drafter.

Example

(12) “Child” means an individual who is under [15] years of age.

A legislative note is unnecessary in this example unless there are special criteria for determining the age.

Example

The [Secretary of State] may adopt rules under [cite to state administrative procedure act] to implement this section.

A legislative note is unnecessary in this example to explain the citation to be inserted, because the statute intended is unambiguous. Similarly, a legislative note is unnecessary if “Secretary of State” is in brackets only because a state may use a different title to describe that official. But a legislative note is necessary if the state might assign performance of that function to a different official than the Secretary of State.

(b) A legislative note that explains how a legislative drafter should determine the language to insert in place of bracketed language should be directed to “a state”, not to “the legislative drafter” or “an enacting state”. For examples of legislative notes complying with this rule, see Appendix C.

(c) A legislative note must be italicized and placed at the end of the section to which it pertains and before the comments. Precede the legislative note with “***Legislative Note:***” in boldface and italics. Single space the legislative note. The legislative note should be flush to the left margin, and the first line should not be indented.

(d) Do not place a legislative note in the middle of a section even if it pertains only to a specific subdivision. Instead, include a reference to the particular subdivision in the legislative note.

(e) If a bracketed term occurs throughout an act, or if the same guidance is necessary in multiple sections of the act, a legislative note is required only for the first occurrence of the bracketed term. The note should state that the same treatment is required each time the bracketed term appears or the guidance applies.

(f) A legislative note is not a comment. A legislative note should be brief and precise.

Example of legislative note when a subsection is optional:

***Legislative Note:** Subsection (d) is optional. It provides a procedure for the office to follow before canceling a certificate of title. A state whose public records or other law does not already provide a procedure that ensures all interested parties are notified in advance and given an opportunity to be heard should adopt subsection (d).*

Example of legislative note concerning a choice between alternatives:

***Legislative Note:** A state that combines fees in a centralized statute should add these fees to that statute and select Alternative A. A state that normally establishes a fee of this kind by administrative rule should select Alternative B.*

(g) When there is more than one legislative note to a section, place each note in a separate paragraph flush to the left margin with a space between the paragraphs. Include “**Legislative Note:**” only before the first paragraph.

(h) A legislative note should not refer to a comment.

(i) If a uniform or model act is amended and the amendment requires a change to a legislative note, do not use strikeout type and underscoring in the revised note.

Rule 503. Alternative Provisions

(a) It is not feasible in some acts to establish a uniform rule of law on a specific point that is acceptable to all the states. In that case, in addition to using bracketed provisions, see Rule 501, alternative provisions may be used if the alternatives do not negate the uniformity that is sought for the general subject of the act. The alternative provisions may encompass an entire section, part of a section, or even an entire article.

Alternatives must be designated clearly by placing the following on the line above the beginning of the first alternative, centered and in boldface:

Alternative A

On the line immediately following the end of the language of the first alternative and

immediately before the beginning of the second alternative, insert the following:

Alternative B

More than two alternatives should be used rarely. However, if more than two alternatives are essential, follow the same pattern.

On the line following the last alternative, insert the following:

End of Alternatives

For an example of an act containing alternative provisions, see Appendix C.

(b) This rule applies only to alternative provisions intended to be included in the final version of the act. During the drafting process, a reporter may suggest alternative language with the expectation that only one alternative will be included in the final act. Designate the alternatives clearly in the interim draft as options for consideration, rather than alternatives. Do not indicate these options with brackets but instead, on the line above each option, use boldface numbers rather than letters: **Option 1**, **Option 2**.

Part 6

Problematic Provisions

Rule 601. Purpose Clause

Do not include a statement of the purpose of the act in the text. A prefatory note or comment may supply this detail to aid in its passage and interpretation. A purpose section may create uncertainty by supporting an argument that a substantive provision of the act may be ignored because it is inconsistent with the purpose section.

Rule 602. Provision Duplicating General Law

(a) Do not include a provision concerning procedure unless the act is intended to establish a procedure different from general procedures. Incorporation of a procedural provision may impair enactability of a uniform or model act. Including a general procedural provision creates a special problem in a state in which procedures are established by court rule rather than by legislation.

(b) Do not include a provision stating that the act is supplemented by common-law principles unless, without such an affirmative statement, the act is likely to be construed as occupying the field, displacing common-law principles. A state statute usually is presumed to be supplemented by the common law. The rare exception is an act, such as a workers' compensation act, that is intended to preempt the field and displace common-law remedies. If it is necessary to include such a statement, consider using the following:

The principles of law and equity supplement this [act] except to the extent inconsistent with this [act].

Rule 603. Creation of Agency

Be cautious about creating a new agency. Before creating an agency, consider the fiscal impact. It may be better to vest a governmental function established by an act in an existing agency. However, if it is necessary to create a new agency, use simple language in the present tense to create the agency.

Example

The Office of Administrative Hearings is created.

Rule 604. Criminal Conduct

Be cautious about creating a new crime in a uniform or model act. The creation of a new crime in an act usually assures that the act will have a fiscal impact, making its enactment more difficult. If a new crime is created, consider using the following text:

Section 14. Penalty

It is unlawful to {insert culpability standard, e.g., knowingly, recklessly, or intentionally} {describe proscribed act or omission}. Violation of this section is a [insert class of offense].

Rule 605. Enforcement of Foreign Judgment

Avoid including a provision for enforcement of an out-of-state judgment, order, or award. A state's general law on enforcement of a foreign judgment ordinarily will cover the matter.

Rule 606. Graphics

Do not include a graphic, border, or bullets in the text of an act or statutory form. Even when they can be reproduced, they create a special printing problem and generally will be deleted by a legislative drafter.

Rule 607. Forms

(a) If a form is necessary to comply with a requirement of an act, it usually is sufficient to delegate the authority to create the form to an appropriate official or agency.

Examples

A cover sheet for an entity filing must be on a form prescribed by the [Secretary of State].

The [Secretary of State] shall prescribe the form of the application.

The act may specify provisions the form must contain.

Example

An applicant for registration as an athlete agent shall submit an application for registration to the [Secretary of State] in a form prescribed by the [Secretary of State]. The application must contain at least the following:

The act may provide that a requirement of the act is satisfied when the form prescribed by the official or agency is used.

(b) If creating a uniform form is desirable, it is preferable to place the form in the comments. The form should be as simple as possible. For examples of statutory forms placed in the comments, see the Comment to the Revised Uniform Anatomical Gift Act Section 5, which contains a Donor Card form intended to be uniform, and the Comment to the Revised Uniform Athlete Agent Act Section 5, which contains a standard registration form and encourages its use.

(c) Avoid placing a statutory form in the text of an act. It often is difficult for a legislative drafting office to duplicate a statutory form. If it is necessary to include a form in the text, the language prescribing the form should indicate whether any deviation from the form is permitted.

Example

The notice required by Section 3 must be in substantially the following form:

Under this provision, a minor typographical or formatting error would not invalidate a person’s use of the form.

If a statutory form is amended, strike out the entire form and underscore the entire form that replaces it.

(d) Do not use brackets for information to be inserted into a form. Instead, use parentheses indicating the information required. Brackets may be used in a form only to indicate a choice to be made by the enacting state. See Rule 501.

Example

I, (name of declarant), under penalty of perjury [declare]: . . .

(Signature) (Date)

(Printed Name)

In this example, the form indicates by parentheses the information to be inserted in the form. The word “declare” is in brackets because the enacting state may use a different term, most likely either “affirm” or “swear”. The choice among those terms should be explained in a legislative note.

Part 7

Grammar

Rule 701. Sentence Structure

Use short, simple sentences. Avoid unnecessary use of dependent clauses, parallel clauses, compound sentences, and other complex sentence structures. Several short, simple sentences are preferable to one long sentence.

Rule 702. Subject of Sentence

In a sentence that imposes a duty, obligation, or prohibition or that grants a power, right, or privilege, make the subject of the sentence the person on which the duty, obligation, or prohibition is imposed or to which the power, right, or privilege is granted, unless the subject is clear from the context.

Rule 703. Tense, Mood, Number, Voice

(a) An act is regarded as speaking in the present and perpetually. Use the present tense. A circumstance putting a provision of an act in operation is in the present tense.

Example

An individual who *is* injured may bring an action under this section.

Use the present perfect tense to state a condition precedent or triggering circumstance that has been completed.

Example

If the issue *has been* litigated previously, the claimant may not recover.

Use the past tense only to describe an event that must have occurred before a requirement of the act applies. Do not use the future tense or the future perfect tense. The use of “shall” in imposing a duty or prohibition does not indicate the future tense.

Example

On the death of a minor who *was* a donor or *signed* a refusal, the procurement organization *shall* conduct a reasonable search for the parents of the minor.

(b) The indicative mood is preferred generally. Use the subjunctive mood if it best expresses the idea.

<i>Do not say</i>	<i>Say</i>
If the officer <i>were</i> president, the officer may preside at the meeting.	If the officer <i>is</i> president, the officer may preside at the meeting.

(c) Use the singular rather than the plural unless only the plural is intended. The singular includes the plural and is simpler and clearer than the plural.

<i>Do not say</i>	<i>Say</i>
Reversionary interests are subject to limitations in the documents that create the interests.	A reversionary interest is subject to a limitation in the document that creates the interest.
The court shall determine whether visitation is in the best interests of the child	The court shall determine whether visitation is in the best interest of the child.

(d) Use the active voice unless using the passive voice makes the provision more readable and the subject is clear.

<i>Do not say</i>	<i>Say</i>
The fee must be paid by the applicant not later than 30 days after submitting the application.	The applicant shall pay the fee not later than 30 days after submitting the application.

Rule 704. Gender

Use gender-neutral language. Do not use “he or she”, “his or her”, or “himself or herself”. Instead, repeat the noun.

<i>Example</i>
An <i>individual</i> who makes an investment in a business enterprise and erroneously but in good faith believes that the <i>individual</i> has become a limited partner in the enterprise is not liable for the obligations of the enterprise.

Rule 705. Consistency

(a) Be consistent in the use of language throughout an act. Do not use the same word or phrase to convey a different meaning. Do not use different language to convey the same meaning.

(b) Be consistent when arranging comparable provisions. Arrange sections containing similar material in the same way.

Rule 706. Brevity

(a) Omit unnecessary language. In construing an act, a court considers each word and tries to give it meaning. Unnecessary language is more likely to mislead than to make the meaning clear.

(b) If a word has the same meaning as a phrase, use the word.

(c) Use the shortest sentence that conveys the intended meaning.

Rule 707. Punctuation

(a) Punctuate carefully. Do not rely on punctuation to clarify the meaning of a sentence. Rewrite a sentence if a change in punctuation might change its meaning.

(b) Use a serial comma (Oxford comma) before the “or” or “and” that precedes the last of a disjunctive or conjunctive series of three or more words, phrases, or clauses in a sentence.

(c) Use a colon to introduce a list of tabulated items. See Rule 106(c).

(d) Do not use parentheses or brackets as punctuation. Use parentheses only around a number or letter to designate a subdivision of a section, as provided in Rule 105, around a date, or around an entry in a form. Brackets have specialized purposes in ULC acts and should be used only for those purposes. See Rule 501.

(e) Although the normal rule for nonlegislative writing is to place a comma or period inside a close quotation mark, in drafting an act, place a comma or period outside a close quotation mark unless an entire sentence is contained in quotation marks. Place a semicolon or colon outside a close quotation mark.

In the first example below, the comma is placed outside the close quotation mark to make it clear that the comma is not part of the defined term “jurisdiction”. In the second example, the commas separating the abbreviations of the name “limited liability company” and the period ending the list are placed outside the close quotation mark to make it clear exactly what characters are permitted in the abbreviations, including the periods. In the third example, the period is placed inside the close quotation mark because the entire sentence is part of the quoted language.

Examples

In this [act], “jurisdiction”, used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.

The name of a limited liability company must contain “limited liability company” or “limited company” or the abbreviation “LLC”, “L.L.C.”, “LC”, or “L.C.”.

Each elector nominee and alternate elector nominee of a political party shall execute the following pledge: “If selected for the position of elector, I agree to serve and to mark my ballots for President and Vice President for the nominees for those offices of the party that nominated me.”

Rule 708. Capitalization

(a) Use an initial capital letter to refer to another specific article, part, or section. Use a lower-case letter to refer to a specific subsection, paragraph, or lower subdivision. This rule conforms to the practice in most states. For rules on capitalization of defined terms, see Rule 301(j).

Examples

The procedural provisions of [*Article*] 3 apply to a transaction under this [*article*].

The requirements of *Section* 4(c) apply to a notice filed under this *section*.

Except as provided in *subsection* (b), the following rules apply:

(b) Use a lower-case letter for an internal reference within the same act, code, article, part, section, or lower subdivision.

Examples

This [*act*] may be cited as the Uniform Military and Overseas Voters Act.

This [*act*] may be cited as the Uniform Probate Code.

The [Attorney General] may maintain an action to restrain a foreign limited partnership from doing business in this state in violation of this [*article*].

The [court] has jurisdiction in a proceeding under this [*code*].

This *section* applies to a foreign limited liability company doing business in this state.

(c) Do not capitalize the word “act” when referring to the act being drafted.

(d) Do not capitalize the word “state” unless it is part of a proper noun, e.g., “Secretary of State”.

(e) Capitalize “Governor”, “Attorney General”, “Legislature”, “General Assembly”, and other official titles.

(f) Capitalize “Internet”. Do not capitalize “website”. This rule conforms to the practice in most states.

(g) Capitalize “Social Security”.

(h) Capitalize the names of United States armed forces, e.g., United States Army.

(i) Do not use all capital letters in the heading or text of an article, part, or section.

Rule 709. Hyphenation

(a) Two or more consecutive words that act together as an adjective modifying a following noun constitute a phrasal adjective. A phrasal adjective should be hyphenated.

Examples

transfer-on-death deed

protected-series manager

criminal-history-record accuracy

(b) There are exceptions to the rule of phrasal-adjective hyphenation:

(1) A two-word phrase containing an adverb ending in *ly* followed by an adjective should not be hyphenated.

Examples

closely held corporation

federally recognized tribe

(2) A phrase that has been naturalized from a foreign language should not be hyphenated.

Examples

ex officio member

bona fide purchaser (*but* good-faith purchaser)

(3) A phrase that is a term of art and not hyphenated in common usage should not be hyphenated unless necessary to avoid confusion or ambiguity.

Part 8

Words, Phrases, Numbers

Rule 801. Choice of Words and Phrases

(a) Do not use a contraction, abbreviation, acronym, initialism, or colloquial expression.

<i>Do not say</i>	<i>Say</i>
U.S.	United States
CPI	Consumer Price Index
ADA	Americans with Disabilities Act

On occasion, a word derived from initials has evolved into a word in its own right and is listed as a word in standard dictionaries. Use of such a word is appropriate.

<i>Do not say</i>	<i>Say</i>
electronic mail	email
Zonal Improvement Plan Code	zip code
Deoxyribonucleic acid	DNA

(b) Use a short, familiar word or phrase that best expresses the intended meaning. Do not use an archaic or indefinite word or a redundant couplet. See Appendix A.

(c) Do not use both a word and its synonym. If two different words with similar meanings are used, the implication is that the words are intended to have different effects.

(d) A possessive noun may be used if there is no ambiguity – for example, “attorney’s fees”. Do not use the possessive of a word ending in “s” – there often is confusion about the proper use of s’ and s’s, particularly with respect to a plural.

(e) Do not insert a word or phrase between an auxiliary verb and its main verb.

<i>Do not say</i>	<i>Say</i>
A warehouse <i>may</i> , by giving notice, <i>require</i> payment.	A warehouse <i>may require</i> payment by giving notice.

Rule 802. Specific Words and Phrases

(a) Do not use “any”, “each”, “every”, “all”, or “some” if “a”, “an”, or “the” can be used with the same result.

<i>Do not say</i>	<i>Say</i>
All owners attending the meeting shall register.	The owners attending the meeting shall register.

(b) Do not use “and/or”. Use “and” to include two or more things. Use “or” to include either or both things.

<i>Do not say</i>	<i>Say</i>
A claimant and/or a beneficiary may apply.	A claimant or beneficiary may apply.

(c) Do not use “deem” to mean “consider”. Use “deem” only to state that something is to be treated as true even if contrary to fact.

<i>Example</i>
The notice is <i>deemed</i> timely received...

(d) In a section without subsections, use “a” or “an” at the first mention of a noun. Use “the” or “that” for further references to the noun. For a section with subsections, see Rule 104(g).

<i>Example</i>
As early as possible before <i>a</i> prospective adoptive parent accepts physical custody of <i>a</i> minor, <i>the</i> parent shall ensure that a physician examines <i>the</i> minor.

Exceptions to this rule are when referring to “the court” and when the first reference to the noun requires particularity.

<i>Examples</i>
<i>The</i> court may request that a recipient file a notice.
If a landlord sends a notice of eviction, <i>the</i> tenant may object.

(e) In a series of singular nouns, use an article (“the”, “a”, or “an”) only before the first noun in the series. Use the indefinite article appropriate for the first noun in the series.

Examples

A partnership, limited liability company, or unincorporated nonprofit association may participate in the program.

An unincorporated nonprofit association, limited liability company, or partnership may participate in the program.

(f) Use “not” with a verb to express what is prohibited or negated. Do not use “no” to modify the person against which the prohibition or negation is directed. Do not begin a sentence with the word “no”.

<i>Do not say</i>	<i>Say</i>
<i>No person may claim more than one credit.</i>	<i>A person may not claim more than one credit.</i>
<i>No adult is required to be present.</i>	<i>An adult is not required to be present.</i>
<i>No proceeding is pending until a complaint is filed.</i>	<i>A proceeding is not pending until a complaint is filed.</i>

(g) Do not add the word “then” after the comma ending an “if” clause. The word “then” is superfluous.

<i>Do not say</i>	<i>Say</i>
<i>If the applicant complies with subsection (a), then the office shall issue a license.</i>	<i>If the applicant complies with subsection (a), the office shall issue a license.</i>

(h) Use “the state” when referring to the enacting state as an entity and “this state” when referring to the geographical boundaries of the state.

Examples

The state shall fund the program.

An applicant for a license must be a resident of this state.

This section applies to an individual employed in this state.

(i) To provide that a circumstance “itself” is not definitive, use the word “itself”. Do not use alternatives such as “in itself”, “of itself”, “by itself”, “alone”, “not solely because of”, or “not solely by reason of”.

<i>Do not say</i>	<i>Say</i>
The person’s conduct is not alone a violation.	The person’s conduct is not itself a violation
The document by itself is not a transfer.	The document is not itself a transfer.

(j) Do not use “such”, “said”, or “aforesaid” as a substitute for “the”, “that”, “it”, “those”, “them”, or similar words.

<i>Do not say</i>	<i>Say</i>
<i>Such</i> application must be in the form the court prescribes.	<i>The</i> application must be in the form the court prescribes.

(k) Do not use “such” or “such as” to express “for example” or “of that kind”.

<i>Do not say</i>	<i>Say</i>
The warehouse may reserve a security interest for a charge not specified in subsection (a), <i>such as</i> for money advanced and interest.	The warehouse may reserve a security interest for a charge not specified in subsection (a), <i>including</i> a charge for money advanced and interest.

An example should be put in the text of an act only if necessary to clarify an ambiguity. Otherwise it should be put in a comment.

Rule 803. “Shall”, “Must”, “May”, “Can”, “Might”, “Should”

(a) Use “shall” for a command or duty imposed on a person. Use “must” for a condition or requirement that is not a command or duty.

<i>Examples</i>
The respondent <i>shall</i> sign the form.
A taxpayer <i>shall</i> file a return before April 30.
A driver <i>shall</i> yield to a pedestrian.
An applicant <i>must</i> be a citizen of this state.
A candidate for Senate <i>must</i> be at least 30 years of age.
The report <i>must</i> include the signer’s name and title.

(b) Do not use “shall” or “must” to state a rule of law. Use the present tense.

<i>Do not say</i>	<i>Say</i>
This [act] <i>shall</i> apply to documents on file.	This [act] <i>applies</i> to documents on file.
All agents <i>shall</i> be bound by the decision.	All agents <i>are</i> bound by the decision.

(c) Use “may” to confer a power, privilege, or right. Do not use “might”. Use “can” only in the sense of “is able to”.

<i>Examples</i>
The applicant <i>may</i> demand an extension of time.
The applicant <i>may</i> renew the application.
The driver may wait for assistance in a location where the driver <i>can</i> safely access the highway.

(d) Use “may not” to express a prohibition. Do not use “shall not” or “must not”.

<i>Examples</i>
The applicant <i>may not</i> submit more than one application.
The application <i>may not</i> be filed before the end of the reporting period.

(e) Use “should” to impute knowledge.

<i>Examples</i>
The seller may reclaim the goods on demand made within a reasonable time after the seller discovers or <i>should</i> have discovered that payment was not made.
“Conspicuous” means written, displayed, or presented so that a reasonable person against which it is to operate <i>should</i> have noticed it.

(f) Do not use “should” or “ought” instead of “shall” or “must”.

<i>Do not say</i>	<i>Say</i>
An applicant <i>should</i> be at least 18 years of age.	An applicant <i>must</i> be at least 18 years of age.
A registered agent <i>ought</i> to serve notice at the address on file.	A registered agent <i>shall</i> serve notice at the address on file.

A provision of this type must state a command or requirement, not merely provide guidance.

Rule 804. “Which”, “That”

(a) Use “that” to introduce a restrictive clause, i.e., a clause essential to the meaning of the noun it belongs to.

<i>Examples</i>
An application to renew a <i>license that</i> has been revoked must be accompanied by a certificate of good standing.
A <i>purchaser in good faith that</i> receives the goods takes free of all liens.
Articles of conversion prevail as to a <i>person, other than a partner or transferee, that</i> reasonably relies on the filed record.

(b) Use “which” to introduce a nonrestrictive clause.

<i>Example</i>
The <i>application, which</i> need not be verified, must be signed by the applicant.

(c) A reference to an antecedent must be unambiguous. If the antecedent is not clear, rewrite the sentence to avoid ambiguity.

<i>Do not say</i>	<i>Say</i>
The donor shall notify the beneficiary of a gift made by a trust <i>that is</i> taxable.	The donor shall notify the beneficiary of a taxable gift made by a trust. or The donor shall notify the beneficiary of a gift made by a taxable trust.

Rule 805. Pronouns

(a) Use “it” only if the antecedent is unmistakable. Repeat the noun if there is a possibility the antecedent is ambiguous.

Example

A *company* loses *its* lien on any goods that *it* voluntarily delivers or unjustifiably refuses to deliver.

The pronouns “its” and “it” are properly used to refer to “company” because they do not cause ambiguity.

Example

If a *disclaimant* is not an individual, the disclaimed interest passes as if the *disclaimant* did not exist.

Use of the pronoun “it” to refer to “disclaimant” would not be proper because the pronoun could be read to refer to “interest”. To avoid this ambiguity, it is necessary to repeat the noun “disclaimant”.

(b) Use “who” or “whom” only if the subject must be an individual. Use “which” or “that” if the subject is the defined term “person” or there is a possibility that the subject may not be an individual, such as a corporation, partnership, or other entity.

(c) Use “whose” as the possessive for both an individual and entity.

Rule 806. Time, Age

(a) To express a range of time, use “not later than”. Avoid using “within”, which creates ambiguity about whether the last day, or other unit of time, is included.

Examples

An appeal must be taken under this section *not later than* 30 days after the order is entered.

An application must be filed *not later than* 30 days after the applicant receives notice of eligibility.

(b) Be as precise as possible when describing a range of time. It may be more precise to describe a period in days instead of months or weeks, e.g., 30 days instead of one month and 90 days instead of three months. State a relatively short period in hours instead of days if the drafting committee intends that the period begin immediately on the occurrence of the event that triggers the period. If the drafting committee decides to measure a period in days, use “days”, not “calendar days” or “business days”, since under most state counting rules, “day” means calendar day. “Business days” may be used if the policy of the act requires it.

When determining how to describe a range of time, the drafting committee should take

into account that general counting rules vary from state to state. If necessary, the following legislative note should follow a provision containing a description of a range of time for the first time in an act:

Legislative Note: *If a state’s general counting rules conflict with the policy reflected in the range of time included in {this section} {subsection ()} and in other parts of this act, adjust the period to preserve the policy of the act.*

(c) Refer to the time of day with a lower-case abbreviation, for example, “5:00 p.m.”. “Noon” is an acceptable alternative for “12:00 p.m.” and “midnight” for “12:00 a.m.”.

(d) Refer to an individual who has reached a certain age as “at least 25 years of age”. The converse is “under 25 years of age”. If the intent is to rely on a state’s age of majority, the phrase “minor” or “age of majority” should be in brackets. Be aware that the age of majority differs among the states.

Rule 807. Numbers

(a) Use Arabic numbers for numbers over nine, i.e., 10, 123, 1,500, 12,500. Spell out numbers one through nine. Do not begin a sentence with an Arabic number. Spell out the number.

<i>Examples</i>
An individual may apply for an absentee ballot not earlier than <i>two</i> months before the individual becomes <i>18</i> years of age.
Twenty members constitute a quorum.

(b) Use a comma in numbers 1,000 and above.

(c) Do not follow the numbers one through nine with Arabic numbers in parentheses.

<i>Do not say</i>	<i>Say</i>
An action must be filed not later than six (6) months after notice is served.	An action must be filed not later than six months after notice is served.

(d) Use a whole number unless there is a substantive reason to use a number with a decimal.

(e) Do not include two zeroes following a decimal point in a dollar amount.

<i>Do not say</i>	<i>Say</i>
The registration fee is \$100.00	The registration fee is \$100.

(f) Express a fraction in words or as a decimal.

<i>Do not say</i>	<i>Say</i>
A $\frac{2}{3}$ vote is required. An employee must be paid for overtime at least $1\frac{1}{2}$ times the employee's regular salary.	A two-thirds vote is required. An employee must be paid for overtime at least 1.5 times the employee's regular salary

Appendix A

Words and Phrases

Do Not Use Legalese

ab initio
aforementioned
aforesaid
before-mentioned
de facto
forthwith
hereafter
hereby
herein
hereinabove
hereinafter
heretofore
herewith
incompetent [to describe an individual; use “lacks legal capacity”]
said [as a substitute for “that”, “the”, etc.]
same [as a substitute for “it”, “him”, “her”, etc.]
such [as a substitute for “that”, “the”, etc.]
thereby
therein
thereof
to wit
whatsoever
whenever
whereby
wherein
whereof
wheresoever

Use Simple Words and Phrases

<i>Do not use</i>	<i>Consider</i>
absolutely null and void and of no effect	void
adequate number of	enough
adjudged, ordered, and decreed	adjudged
admit of	allow
afforded	given
agree and covenant	agree
alter	change

<i>Do not use</i>	<i>Consider</i>
among and between	among, between
anticipate	expect
any and all	any, all
as provided in	under
ascertain	find, determine
at the place	where
at the time	when
authorize and direct	authorize, direct
authorize and empower	authorize
both real and personal property	real and personal property
by and with	by, with
by means of	by
by reason of	because
by virtue of	because
cease and desist	cease
cognizant of	aware, knew
component	part
compromise [an obligation]	excuse
conduct business	do business
consequence	result
constitute and appoint	appoint
contiguous to	next to, abutting
deliver or cause to be delivered	deliver
different than	different from
do and perform	do, perform
does not operate to	does not
due care and attention	attention
during such time as	during, while
during the course of	during, while
each and all	each, all
each and every	each, every
effectuate	bring about, carry out, cause
employ [in the sense of use]	use
endeavor [as a verb]	try
engage in business	do business
enter into a contract with	contract with

<i>Do not use</i>	<i>Consider</i>
evince	show
except that	but
excessive number of	too many
expend	spend
final and conclusive	final, conclusive
fit and proper	proper
for purposes of <i>or</i> for the purpose of	under
for the duration of	during, while
for the reason that	because
force and effect	effect
from and after	on and after
from July 1	after June 30
full and complete	full, complete
furnish	provide
has the duty to	shall
have knowledge of	know
have the right to	may
if and only if	if, only if
impact [as a verb]	affect, have an effect on
in accordance with	under
in case	if
in lieu of	instead of, in place of
in Sections 202 to 209 inclusive	in Sections 202 through 209
in the case of	if
in the event that	if
in the interest of	for, for the benefit of
including, but not limited to,	including
indicate [in the sense of show]	show
inquire	ask
is able to	can, may
is applicable	applies
is authorized to	may
is binding upon	binds
is directed to	shall
is entitled to	may
is unable to	cannot

<i>Do not use</i>	<i>Consider</i>
it shall be lawful for a person to	a person may
made and entered into	made, entered into
make payment	pay
make provision for	provide for
may exercise the right to	may
met [as in requirements or burden of proof]	satisfied
move the court	request the court
necessitate	require, need
null and void	void
numerous	many
occasion [as a verb]	cause
on and after July 1	after June 30
on or before June 30	before July 1
on the part of	by
or, in the alternative,	or
order and direct	order, direct
organized	formed
ought	should
over and above	over, above, more than
per annum	each year, annually
per centum	percent
perform and discharge	perform
period of time	period, time
petition the court	request the court
portion	part
power and authority	authority, may
preserve	keep
prior [as an adjective]	earlier
prior to	before
procure	obtain
promulgate	adopt
prosecute business	do business
provide	give
provided that	but, if
provision of law	law
pursuant to	under
render [in the sense of give]	give
require [in the sense of need]	need

<i>Do not use</i>	<i>Consider</i>
retain	keep
shall have and exercise	has, shall exercise
sole and exclusive	sole
solely by reason of	solely because of
specified [in the sense of named]	named
subsequent to	after
successfully completes	completes
suffer [in the sense of permit]	permit
sufficient number of	enough
summon	send for, call
terms and conditions	terms
the manner in which	how
time period	time, period
transact business	do business
type and kind	type, kind
undertake to do business	do business
unless and until	unless, until
until such time as	until
upon	on
utilize	use
when [used to state a condition]	if
where [used to state a condition]	if
whether or not	whether, regardless of whether
with reference to	as to, relating to, concerning
with the object of changing	to change
within or without	inside, outside

Appendix B

Rules for Formatting

1. Use the template in Appendix D.
2. Use the current version of Microsoft Word.
3. Use Times New Roman 12 font.
4. Double-space the text of an act. Single-space a comment or legislative note. See Rules 109 and 502.
5. Use one space after a period or colon. Use a single space after the close parenthesis at the beginning of a subdivision, e.g., “(a) In this [act]:”
6. Use left justification. Do not use right or full justification.
7. Number each line of text in a draft on the left margin. Restart numbering at line 1 of each page.
8. Number each page, beginning with page 1, after the table of contents. Use an Arabic number at the center of the bottom of each page. Do not number the cover page, list of drafting committee members, or table of contents. The ULC office will prepare the cover page, list of members, and table of contents.
9. In an act without articles, number sections sequentially from Section 1, using Arabic numbers. Do not skip or reserve a number. Do not use an “alpha” number, such as “Section 12A” as a section between Sections 12 and 13, unless required in a revision of an act. Otherwise, renumber the sections as Sections 12, 13, and 14 and renumber subsequent sections.
10. In an act with articles, number sections in Article 1 from Section 101; in Article 2 from Section 201; etc. Do not skip or reserve an article.
11. Use boldface for a section number and boldface initial capitals for a section heading. Place a period and one space after each section number. Do not place a period after a heading. Do not place text on the same line as the section heading.
12. Consult with the Style Committee liaison before breaking an article into parts. See Rule 101.
13. Do not use italics or boldface in the text of an act. Do not underscore except in an amendment. See Rule 107.
14. A comment heading should be the word “Comment” centered and in boldface. The heading should be singularized even if there are multiple topics.

15. Do not skip a line to start a new page with a new section or article. Run all material continuously without a page break.

16. A footnote may be used only in a prefatory note or a draft to be considered solely at a drafting committee meeting.

17. Set subdivision tabs as indicated in Rule 105.

18. When submitting a draft to the Style Committee or the ULC office do not indicate changes from earlier drafts. This rule does not apply to a draft prepared solely for the use of the drafting committee.

Appendix C

Example of Format

Uniform Electronic Wills Act

Section 1. Title

This [act] may be cited as the Uniform Electronic Wills Act.

Section 2. Definitions

In this [act]:

(1) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

[(2) “Electronic presence” means the relationship of two or more individuals in different locations communicating in real time to the same extent as if the individuals were physically present in the same location.]

(3) “Electronic will” means a will executed electronically in compliance with Section 5(a).

* * *

Legislative Note: A state that permits an electronic will only if executed with the witness in the physical presence of the testator should omit paragraph (2) and renumber the subsequent paragraphs accordingly. See also the legislative note to Section 5.

Section 3. Law Applicable to Electronic Will; Principles of Equity

An electronic will is a will for all purposes of the law of this state. The law of this state applicable to wills and principles of equity apply to an electronic will, except as modified by this [act].

* * *

Section 5. Electronic Execution of Electronic Will

(a) Subject to Section 8(d) [and except as provided in Section 6], an electronic will must

1 be:

2 (1) a record that is readable as text at the time of signing under paragraph (2);

3 (2) signed by:

4 (A) the testator; or

5 (B) another individual in the testator's name, in the testator's physical
6 presence and by the testator's direction; and

7 (3) [either:

8 (A)] signed in the physical [or electronic] presence of the testator by at
9 least two individuals[, each of whom is a resident of a state and physically located in a state at
10 the time of signing and] within a reasonable time after witnessing:

11 [(A)] [(i)] the signing of the will under paragraph (2); or

12 [(B)] [(ii)] the testator's acknowledgment of the signing of the will under
13 paragraph (2) or acknowledgement of the will[; or

14 (B) acknowledged by the testator before and in the physical [or electronic]
15 presence of a notary public or other individual authorized by law to notarize records
16 electronically].

17 (b) Intent of a testator that the record under subsection (a)(1) be the testator's electronic
18 will may be established by extrinsic evidence.

19 **Legislative Note:** *A state should conform this section to its will-execution statute.*

20
21 *A state that enacts Section 6 (harmless error) should include the bracketed language at the*
22 *beginning of subsection (a).*

23
24 *A state that permits an electronic will only when the testator and witnesses are in the same*
25 *physical location, and therefore prohibits remote attestation, should omit the bracketed words*
26 *"or electronic" from subsection (a)(3) and Section 8(c).*

27
28 *A state that has enacted Uniform Probate Code Section 2-502 or otherwise validates an*
29 *unattested but notarized will should include subsection (a)(3)(B).*

1 **Section 12. Effective Date**

2 This [act] takes effect . . .

Appendix D

Template of Uniform or Model Act

The following pages provide a template of a uniform or model act. This template contains examples of text for common provisions. Delete any text that is not applicable to your act.

If the text is not deleted: (1) bracketed text “[]” should remain as shown and (2) text designated by braces “{ }” contains an instruction or indicates a field where new text should be inserted.

A Word version of this template can be downloaded [here](#), obtained from the ULC office, or downloaded from the Style Committee page of the ULC [website](#).

1 {Title of Act}

2 **Section 1. Title**

3 This [act] may be cited as the {title of act}.

4 **Section 2. Definitions**

5 In this [act]:

6 (1) “Electronic” means relating to technology having electrical, digital, magnetic,
7 wireless, optical, electromagnetic, or similar capabilities.

8 * * *

9 (4) “Person” means ... {See Rule 304 for options for the definition of “Person”}.

10 (5) “Record” means information:

11 (A) inscribed on a tangible medium; or

12 (B) stored in an electronic or other medium and retrievable in perceivable
13 form.

14 (6) “Sign” means, with present intent to authenticate or adopt a record:

15 (A) execute or adopt a tangible symbol; or

16 (B) attach to or logically associate with the record an electronic symbol,
17 sound, or process.

18 (7) “State” means a state of the United States, the District of Columbia, Puerto
19 Rico, the United States Virgin Islands, or any other territory or possession subject to the
20 jurisdiction of the United States. {See Rule 305 for additional considerations concerning the
21 definition of “State”}.

22 * * *

23 *{Legislative Note: For a section that includes a bracketed choice or a related policy decision, a*
24 *legislative note must be inserted in this format.}*

1 **{Comment**

2 Following a section with comments, insert the heading “Comment” as above (centered
3 and bolded) and single space the comment beginning at the second line below the heading,
4 indented from the left margin.
5

6 In a section without comments, the next section should begin double-spaced below the
7 end of the preceding section.}
8

9 **Section 3. {Insert section heading, e.g., Scope}**

10 (a) . . . {Continuation of this subsection beyond the first line returns to the left margin.}

11 (1) . . . {Continuation of this paragraph beyond the first line returns to the left
12 margin.}

13 (A) . . . {Continuation of this subparagraph beyond the first line returns to
14 the left margin.}

15 (i) . . . {Continuation of this clause beyond the first line returns to
16 the left margin.}

17 (I) . . . {Continuation of this subclause beyond the first line
18 returns to the left margin.}

19 * * *

20 **Section 4. Uniformity of Application and Construction**

21 In applying and construing this uniform act, a court shall consider the promotion of
22 uniformity of the law among jurisdictions that enact it. {Omit this provision from a model act.}

23 **Section 5. Relation to Electronic Signatures in Global and National Commerce Act**

24 **{Insert if necessary.}**

25 This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National
26 Commerce Act, 15 U.S.C. Section 7001 et seq.[, as amended], but does not modify, limit, or
27 supersede 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices

1 described in 15 U.S.C. Section 7003(b).

2 **Legislative Note:** *It is the intent of this act to incorporate future amendments to the cited federal*
3 *law. A state in which the constitution or other law does not permit incorporation of future*
4 *amendments when a federal statute is incorporated into state law should omit the phrase “, as*
5 *amended”. A state in which, in the absence of a legislative declaration, future amendments are*
6 *incorporated into state law also should omit the phrase.*

7

8 **Section 6. {Saving Provision}**

9 If a saving provision is necessary, include appropriate language. See Rule 403.}

10 **Section 7. {Transitional Provision}**

11 If a transitional provision is necessary, include appropriate language. See Rule 403.}

12 **[Section 8. Severability**

13 If a provision of this [act] or its application to a person or circumstance is held invalid,
14 the invalidity does not affect another provision or application that can be given effect without the
15 invalid provision.]

16 **Legislative Note:** *Include this section only if the state lacks a general severability statute or a*
17 *decision by the highest court of the state stating a general rule of severability.*

18

19 **[Section 9. Repeals; Conforming Amendments**

20 (a) . . .

21 (b) . . .]

22 **Legislative Note:** *A state should examine its statutes to determine whether conforming revisions*
23 *are required by provisions of this act relating to { }. See Section { }.*

24

25 **Section 10. Effective Date**

26 This [act] takes effect . . .

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