

# QUARTERLY REPORT

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Uniform Law Commission  
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## Message from the President

Tim Berg  
President



“Change is the only constant in life. One’s ability to adapt to those changes will determine your success in life.”

- Benjamin Franklin

As I announced at the 2023 annual meeting, one of my goals as President will be to focus on succession planning. This organization has thrived for well over a century because of its dedicated members. But as we all know, change – in our membership, from year to year and from state to state – is constant. Which is why succession planning is of such paramount importance to the ULC.

Succession planning is not merely an abstract idea; rather, it is a strategic necessity that preserves the continuity and vitality of the ULC. Here are a few key reasons why succession planning is so important:

- **Institutional Knowledge Preservation.** Succession planning enables us to preserve the wealth of institutional knowledge that resides within our more senior members. By sharing this knowledge, we allow our newer members – who will be our future leaders – to build upon this strong foundation.

- **Adapting to Change.** The legal landscape, and certainly the state legislative landscape, is subject to constant change. The ULC can no longer simply rely on its traditional reputation as a nonpartisan organization. When problems arise, succession planning will help us to identify newer commissioners with the skills and vision necessary to adapt and respond to new challenges.
- **Cultivation of Talent.** Succession planning is an investment in talent development. By identifying and supporting the potential of our newer members, we foster a culture of inclusion and growth.
- **Leadership Continuity.** A well-thought-out succession plan ensures a smooth transition of leadership, mitigating any potential disruptions to our work. It provides a roadmap for the cultivation and development of emerging leaders, ensuring that they are well-prepared to assume their roles.
- **Orientation Sessions.** Attending the annual meeting for the first time as a new commissioner can be somewhat overwhelming. The Membership & Attendance Committee will continue to offer new commissioners additional orientation sessions via Zoom to supplement the traditional new commissioner lunch at each annual meeting.
- **Enactment Efforts.** New commissioners should be encouraged to get involved in their states' enactment efforts as soon as possible. The appropriate members of the Legislative Council and legislative staff will continue to meet with new commissioners to bring them up to speed on the delegation's legislative activity.

I will continue the work, begun under my predecessor Dan Robbins, to establish procedures to better engage new commissioners in the work of the ULC. New commissioners represent the future of the ULC. Those being appointed now will soon become our drafting committee chairs, our division chairs, the members of our Executive Committee, and our presidents. These procedures, designed to implement a significantly expanded approach to engaging our new commissioners, includes:

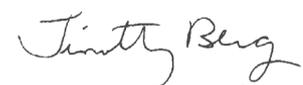
- **Accelerated Committee Assignments.** Getting involved in the ULC's study and drafting efforts is probably the most common way that commissioners become thoroughly integrated into the fabric of our organization. Yet far too often, commissioners are part of the ULC for years before getting involved in a project. I plan to offer a seat on a committee to new commissioners within six months of their appointment. Whether or not the committee assignment is accepted, by making the offer, we at least increase our chances of getting more new commissioners engaged early on.
- **Expanded Mentoring Program.** The Membership & Attendance Committee will expand its mentoring program that has been in place for many years. The Membership & Attendance Committee will take the lead role in verifying that the commissioners are finding ways to get involved in the ULC's activities over the course of the new commissioners' first two to three years in the ULC.

While I am committed to bringing new commissioners into the fold of the ULC by continuing these procedures outlined above, I urge all of you to think about succession planning in your own state. State delegations are the building blocks of the ULC. They are essential in our enactment efforts in the states. They provide an opportunity for developing leadership for the ULC. Our strength depends on our members, and the work of engaging new members begins in their home state.

Whenever a new commissioner is appointed from your state, reach out to that person and make them feel welcome. If we can get most of our new commissioners incorporated into the life of the ULC and persuade them to commit to long-term participation, we could significantly improve the quality of our work. When planning the work of your state delegation, make sure that the entire delegation is engaged. Communication is important, so make sure that there are open lines of communication among all of the members.

I encourage each state delegation to actively engage in discussions surrounding succession planning. Your shared insights and perspectives will be invaluable as we work together to chart the course for the future.

Along with others in ULC leadership, I will continue to think about ways that we can proactively address succession planning to ensure the future and continued success of the ULC.





## Legislative Update

The 2024 legislative year is well underway, and we're seeing legislative activity in most states, with introductions reported in all but eight states. As an even year, four states – Montana, Nevada, North Dakota and Texas – have no session at all this year, and many other states have budget sessions, meaning there is limited opportunity for introductions. Even so, we currently report 168 introductions and twelve enactments in the states to date, with more expected in the coming months.

Nebraska is off to a great start, with three enactments already on the books: the Uniform Community Property Disposition at Death Act, the 2022 Amendments to the UCC, as well as the 2018 Amendments to UCC 9-406 and 9-408. California and South Dakota are not far behind with two enactments each. California has enacted the Uniform Directed Trust Act and the Uniform Regulation of Virtual Currency Businesses Act, and South Dakota has enacted the 2022 Amendments to the UCC and the 2018 Amendments to UCC 9-406 and 9-408.

A number of states are leading the way with several introductions, including Missouri with 15 introductions; Massachusetts with 11 introductions; District of Columbia, Oklahoma and South Carolina with 8 introductions each; West Virginia with 7 introductions; Illinois, Nebraska, North Carolina, Pennsylvania, and Washington with 6 introductions each.

As expected, the 2022 Amendments to the UCC are leading the way with introductions. The 2022 Amendments update and modernize the UCC to address emerging technologies. The Amendments have been introduced to date in 17 states: District of Columbia, Georgia, Illinois, Iowa, Kentucky, Maine, Massachusetts, Minnesota, Missouri, Nebraska (enacted), New York, Oklahoma, Rhode Island, South Dakota (enacted), Tennessee, Virginia, and West Virginia. The 2022 UCC Amendments have now been enacted in a total of 13 states: Alabama, California, Colorado, Delaware, Hawaii, Indiana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, South Dakota, and Washington.

Other acts with several introductions in the states include the Uniform Public Expression Protection Act with 8 introductions; Uniform Electronic Wills Act with 7 introductions; Uniform Partition of Heirs Property Act with 6 introductions; and Uniform Child Abduction Prevention Act and Uniform Electronic Estate Planning Documents Act with 5 introductions each.

The newly approved acts from 2023 are doing well:

- Uniform Consumer Debt Default Judgments Act introduced in one state: Colorado.
- Uniform Health-Care Decisions Act introduced in one state: Nebraska.
- Uniform Special Deposits Act introduced in four states: Colorado, Oklahoma, Washington, and West Virginia.
- Uniform Unlawful Restrictions in Land Records Act introduced in eight states: Arizona, Colorado, District of Columbia, Missouri, Nebraska, Pennsylvania, Washington, and West Virginia. It was enacted as substantially similar in Pennsylvania.

See [legislative reports](#), updated weekly on the ULC website, for complete details.



## ULC Legislative Webinars

Beginning in late 2020, the ULC began offering webinars on specific uniform acts. These free, one-hour webinars are meant to address how current ULC acts can have an impact in the states. Each webinar is designed to provide background on a particular issue, to provide information on a current uniform act which addresses that issue, and to provide legislative strategies for enactment in the states. A total of 12 webinars have been offered to date. These webinars are open to all commissioners and the general public.

The most recent webinar was held on February 7, 2024, entitled "Uniform Faithful Presidential Electors Act: Addressing Avoidable Threats to the American Presidential Selection Process." The Uniform Faithful Presidential Electors Act (UFPEA) was promulgated in 2010 and has been enacted to date in 10 states. It has been introduced in three states in 2024.

The UFPEA provides a statutory remedy in the event a state presidential elector fails to vote in accordance with the voters of his or her state. UFPEA has a state-administered pledge of faithfulness, with any attempt by an elector to submit a vote in violation of that pledge, effectively constituting resignation from the office of elector. UFPEA also provides a mechanism for filling a vacancy created for that reason or any other. The UFPEA disallows faithless voting and assures that faithful votes are substituted for faithless ones. In doing so, it provides the voters of the state with the confidence that the votes they have cast will be honored when the Electoral College meets. A link to the Uniform Faithful Presidential Electors Act can be found [here](#).

All webinars are available to watch on the ULC website [here](#).

Additional webinars are being planned. Please check the link above for updates to the webinar schedule.





## ABA House of Delegates Approves Four Uniform Acts

Four uniform acts – the Uniform Collaborative Law Act, the Uniform Consumer Debt Default Judgments Act, the Uniform Special Deposits Act, and the Uniform Unlawful Restrictions in Land Records Act – were approved by the American Bar Association’s House of Delegates as “appropriate Acts for those states desiring to adopt the specific substantive law suggested therein.” The acts were approved at the ABA’s 2024 Midyear Meeting in Louisville, Kentucky, January 31 to February 5, 2024.

The **Uniform Collaborative Law Act** (UCLA) regulates the use of collaborative law, a voluntary, client-driven form of alternative dispute resolution. It may be enacted by legislation, court rule, or a combination of the two. The UCLA standardizes the most important features of the collaborative law process, protecting consumers, preventing lawyers from engaging in unethical practices, and creating rules governing the disclosure of information and evidentiary privilege. The UCLA was approved by the ULC in 2009 and amended in 2010. Since its promulgation, it has been enacted in 23 states.

Numerous studies report that default judgments are entered in more than half of all debt collection actions. The purpose of the **Uniform Consumer Debt Default Judgments Act** (UCDDJA) is to provide consumer debtors and courts with the information necessary to evaluate debt collection actions. The UCDDJA provides consumer debtors with access to information needed to understand claims being asserted against them and identify available defenses; advises consumers of the adverse effects of failing to raise defenses or seek the voluntary settlement of claims; and makes consumers aware of assistance that may be available from legal aid organizations. The UCDDJA also seeks to provide a uniform framework in which courts can fairly, efficiently, and promptly evaluate the merits of requests for default judgments while balancing the interests of all parties and the courts.

A special deposit is an account at a bank that holds funds that may be paid upon the occurrence of one or more contingencies. Although such accounts are common, the legal protections afforded to them are uncertain and outdated in the context of modern banking.

The **Uniform Special Deposits Act** minimizes these legal uncertainties by providing clear and executable rules. First, the Act sets forth several elements for when a deposit is considered a “special deposit.” Second, the Act specifies that a special deposit is a debt owed to the beneficiary after determination of a stated contingency. Third, the Act clarifies that a special deposit is remote from a depositor’s bankruptcy estate unless the depositor has a determined right to the special deposit in its capacity as a beneficiary. Finally, the Act reduces the vulnerability created by the prospect of the bank holding the special deposit exercising a right of set off against the special deposit for a mature debt of the depositor or a beneficiary. The Uniform Special Deposits Act gives banks and their customers legal certainty that the expectations of special deposit account users will be respected.

The **Uniform Unlawful Restrictions in Land Records Act** allows property owners whose deed contains a discriminatory, prohibited restriction to record an amendment to the land records that effectively removes the restriction. Under the Act, individuals who own property in a common interest community that is subject to a prohibited restriction are empowered to record an amendment to the governing instruments that removes the restriction, either by majority vote of the members of the association or by sending a request to the governing body. The Act creates a path forward for property owners who want to correct the record on the often-painful history of their homes. This Act was approved by the ULC in 2023.

Additional information on each of these uniform acts, including legislative tracking, is available at the ULC’s website at [www.uniformlaws.org](http://www.uniformlaws.org).

# New Study and Drafting Committees



At its recent January 2024 Midyear Meeting, the ULC Executive Committee authorized the appointment of three new drafting committees and one new study committee.

The new study committee is:

## **Study Committee on Definition and Protection of a Child's Interest in the Child's Name, Image, Likeness and Other Intellectual Property**

The use of children as social media influencers (often referred to as "kidfluencers") has grown exponentially in the last decade, primarily through postings by their parents or caregivers on Instagram, TikTok, YouTube, and other major social media platforms. The role of parents is central: on most social media platforms, parents have to open and manage the accounts of children under the age of 13. The amount of money that child influencers can earn varies widely, but the most successful ones can make millions of dollars. This committee will study the need for and feasibility of an act addressing the definition and protection of a child's interest in the child's name, image, likeness, and other intellectual property.

The new drafting committees are:

## **Drafting Committee on Occupational Licenses of Servicemembers and Military Spouses**

In January 2023, Title VII of the Servicemembers Civil Relief Act (SCRA) was amended to address the issue of a servicemember's spouse who had a professional license who relocated to accompany the servicemember in a move to another state. While the new federal law mandates the ability of the spouse to be able to practice his or her profession in the new state, it leaves open the mechanism to be used by the new state to facilitate that result. This committee will develop a uniform or model act addressing state law changes needed to implement the federal mandate under Title VII of the SCRA as amended in January 2023, and other related issues.

## **Drafting Committee on Commercial Financing Disclosure**

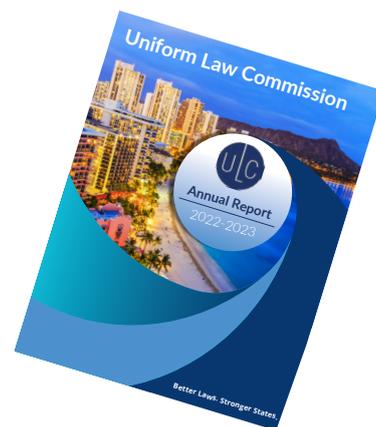
While the federal Truth in Lending Act requires specified disclosures in connection with consumer leases and consumer credit transactions, it does not apply to transactions in which credit or other financing is extended to a business. Seven states now have statutes requiring specified disclosures in commercial finance transactions, though the statutes vary widely. Even within a single state, the laws and associated regulations can be extremely complex. This variation and the complexity of the disclosure rules may lead to increased cost and risk of providing financing. This committee will draft a uniform or model act addressing disclosure requirements in commercial financing transactions. Topics to be considered include which finance providers and transactions to cover, what information should be disclosed, and what the consequences of violations should be.

## **Drafting Committee on Updates to the Uniform Transfers to Minors Act**

This committee will develop targeted updates to the Uniform Transfers to Minors Act (UTMA). The existing act has been enacted in every state since it was approved by the ULC more than 40 years ago. Under UTMA, a person may transfer property to a custodian for the benefit of a minor. Issues to be addressed include raising the termination age, revising the appointment process for successor custodians, clarifying UTMA use for support obligations, permitting distributions for qualified minors' trusts and 529 (and 529A ABLE) accounts, increasing monetary thresholds for court oversight, allowing joint custodians, specifically referencing certain property interests, and other similar issues.

## ULC Annual Publications

ULC annual publications are now posted and available online. The ULC's **Annual Report** contains information on current ULC activity, and commissioners are encouraged to use the report in your state. You can use the report for informing individuals in your state about the ULC, including appointing authorities, legislative leadership, and state bar leadership; there may also be other people you wish to keep informed on ULC activities. The newest version of the Annual Report has been posted on the ULC website at this [link](#).



Other annual publications are also posted on the ULC website.

The **Guide to Uniform and Model Acts**, which has summary information on every current uniform and model act, is a quick reference guide to ULC acts. It is designed for commissioners but is also useful for other individuals who may need information on the ULC. The **2023-2024 ULC Reference Book** has also been updated and is available.

And don't forget the **ULC Current Projects List**, which includes brief descriptions of all active study and drafting committees.

All of these documents are available in electronic form on the ULC website. To access the **Annual Report**, the **Guide to Uniform and Model Acts**, and the **Current Projects List**, go to the ULC website and click the "News and Publications" tab and select "Publications" from the dropdown menu.

To access the **Reference Book**, please log into the ULC website and click on the "Commissioner References" tab that appears at top of the webpage. The Reference Book is posted under "Documents."

The direct link to all ULC publications can be found here: <https://www.uniformlaws.org/newsandpublications/publications>



## Reminder to Update Your Commissioner Profile Form!

Did you know that you can update your ULC profile online? No need to contact the ULC HQ, you can update your information online. Has your contact information changed? Are you a member of other legal organizations which may be relevant to the ULC? It may be time to update your commissioner profile information.

You can review and update your commissioner profile on the ULC website as follows: (1) go to [www.uniformlaws.org](http://www.uniformlaws.org), (2) log into the website using your user name and password, (3) once you have logged in to the website, update your profile information by selecting "Edit Profile" from the top menu bar. Some of the information you provide (e.g., fields indicating your areas of expertise and interest) will be considered in future committee appointments. You also have the option of providing additional biographical information if you wish. The commissioner profile form is a multi-page form, so please take the time to review each page.

If you have any difficulty accessing your account, please contact Leang Sou in the Chicago office at [lsou@uniformlaws.org](mailto:lsou@uniformlaws.org).

## New ULC Commissioners

### North Dakota

Dustin A. Richard has been appointed commissioner, replacing Jennifer Clark.

### Mississippi

D. Sterling Kidd has been appointed commissioner, replacing John Flynt.

### North Carolina

Eric M. David has been appointed commissioner, replacing Suzanne Reynolds.

## Condolences



Diane Carroll, wife of former Arkansas Commissioner Phil Carroll, passed away on Dec. 26, 2023, at the age of 93. Phil, who passed away in 2013, was one of the stalwarts of the ULC. He served as President from 1985-1987, chaired the Executive Committee, the Scope and Program Committee, and was a long-time member of the Legislative Committee. Diane accompanied her husband Phil to every ULC annual meeting, and numerous other meetings in between. Diane had countless friends within the ULC.

Diane was born in Shreveport, Louisiana, and after graduating from Byrd High School in Shreveport, she attended the University of Arkansas, which is where she met Phil Carroll, a young man from Fort Smith, Arkansas. After college, Diane worked as a flight attendant for Braniff Airlines, and Phil liked to tell the story of how he would surprise

Diane by meeting her plane at different destinations. Phil and Diane married on October 3, 1953, and they settled in Little Rock, where Phil was a lawyer with the Rose Law Firm. They raised three daughters: Becky, Susan, and Elizabeth.

In addition to her role as mother to three girls, Diane was also a tireless community volunteer. She was President of the LR Junior League, President of the Fine Arts Club at the Arkansas Arts Center, Chair of the Tabriz Auction, and a member of the Arts Center Board. She served on the Board of Trustees for Mount St. Mary's Academy, where she also chaired the senior service volunteer program. In 1987, Diane made a brief reentry into the professional world when asked to serve as the Executive Director of the Little Rock Arts and Humanities Promotion Commission where she actively promoted the arts and humanities in Little Rock.

Diane is survived by her three daughters and their spouses: Becky (Linda Spink) of Pelham, Mass., Susan Colgin (Chris) of Dallas, Texas, and Elizabeth Bradbury (Jim) of Austin, Texas. She is also survived by five grandchildren and six great-grandchildren. Our sincere condolences go out to Diane's family.

