



To: Joint Editorial Board for Uniform Trust and Estate Acts

From: Thomas Gallanis
JEB-UTEA Executive Director

Re: Minutes from April 2018 Meeting, Chicago, Illinois
FINAL – APPROVED November 30, 2018

The meeting was called to order on Friday, April, 13, 2018, at 9:00am by Chair Bruce Stone. Present were Molly Ackerly (Division Chair), Turney Berry, David English, Mary Louise Fellows (on Friday), Thomas Gallanis (Executive Director), Shirley Kovar, John Langbein, Carlyn McCaffrey, Kevin Millard, Pam Schneider, James Wade, and Suzanne Brown Walsh. Also present were observers Michael Benevento, Susan Snyder, and Jeanping Wu.

1. Approval of Minutes. The minutes of the December 2017 meeting were approved with one correction.

2. Probate Code/Parentage. The Board discussed a draft of proposed amendments to the Probate Code prepared by Profs. Fellows, Gallanis, and English.

Action items:

- i. Profs. Fellows, Gallanis, and English will prepare a revised draft for the Board's Fall 2018 meeting.
- ii. Prof. Gallanis will contact the ULC leadership to determine the appropriate procedure for approval of the amendments once they are finalized.

3. Tribal Probate. Prof. English gave a brief report on the status of the Tribal Probate Code project.

4. Powers of Appointment. The Board discussed a technical amendment to Section 305(c) of the Powers of Appointment Act. As finalized and approved by the Board by e-mail after the meeting, the amendment adds the word “or” at the end of paragraph (3) and adds a new paragraph (4) as follows: “(4) create a nongeneral power in a permissible appointee to appoint to one or more persons if the permissible appointees of the new nongeneral power include the permissible appointees of the original nongeneral power.” The Comment was amended accordingly.

Action item: Prof. Gallanis will transmit the proposed amendment to the ULC Executive Committee.

5. Referral from Scope and Program. The ULC Committee on Scope and Program referred for the Board’s consideration a proposal by Commissioner Tom Geu for a study committee on virtual representation. The Board discussed the proposal and concluded: (1) with respect to virtual representation as a doctrine within the law of trusts, the Board plans to look at this issue when the Board turns to consider a package of Uniform Trust Code updates; (2) to the extent that

the Committee on Scope and Program has interest in a study committee on virtual representation, the scope of the study committee should be broader than trusts, for example including questions of virtual representation in probate and nonprobate transfers; (3) virtual representation implicates areas of law beyond trusts and estates, so the Board encourages the Committee on Scope and Program to seek input from groups beyond the Board.

Action item: Prof. Gallanis will convey the Board's views to the Committee on Scope and Program.

6. Conflict of Laws. The Board had a brief discussion of a possible future project on conflict of laws in the law of trusts and succession. The Board resolved to continue the discussion at the Fall 2018 meeting, with Prof. Kermit Roosevelt (reporter for the Restatement Third of the Conflict of Laws, currently in progress) participating by speakerphone or in person depending on the meeting's location.

Action item: Prof. Gallanis will invite Prof. Roosevelt.

The meeting adjourned at 5:00pm and reconvened on Saturday, April 14, 2018, at 8:00am.

7. Electronic Wills. The Board discussed the April 3, 2018, draft of the Electronic Wills Act.

Action item: The Board will discuss a revised draft of the Act at the Board's Fall 2018 meeting.

8. Management of Funds Raised Through Crowdfunding Efforts. The Board discussed the April 5, 2018, draft of the Management of Funds Raised Through Crowdfunding Efforts Act. (After the Board's meeting, Mr. Berry reported that the Act will not be read at the 2018 annual meeting.)

Action items:

- i. The Board will discuss a revised draft of the Act at the Board's Fall 2018 meeting.
- ii. Mr. Berry and Prof. Gallanis will communicate to ULC leadership the Board's suggestion that, if the Act's drafting committee will meet the same weekend as the Board in Fall 2018, the two meetings could be held at the same hotel.

9. Trust Decanting Act. The Board briefly discussed whether to modify Section 17(c) of the Trust Decanting Act, which provides: "A second-trust instrument may not reduce fiduciary liability in the aggregate." The Board concluded that no modification to this subsection is needed.

10. JEB Think Tank. The Board held a preliminary but wide-ranging discussion of possible activities and initiatives.

Action items:

- i. Board members will send to Prof. Gallanis names of individuals who would be highly qualified to join the Board as academic or corporate-fiduciary liaisons. At the Fall 2018 meeting, the Board will consider adding one liaison in each of the two categories.
- ii. Prof. Gallanis will contact Prof. Jeffrey Schoenblum of Vanderbilt University to determine whether he would be interested in serving as a consultant or special reporter to the Board on the conflict of laws, or at least in participating in the discussion of conflict of laws during the Board's Fall 2018 meeting.
- iii. Prof. Gallanis will discuss with Mr. Orzeske the Board's desire for a channel of communication between the Board and the ULC Technology Committee.

iv. Board members will send to Prof. Gallanis ideas for future projects on which research might usefully be started either by one or more members of the Board or by an external academic or practitioner as a special reporter or consultant to the Board.

The meeting was adjourned on Saturday, April 14, 2018, at approximately 10:45am.

Respectfully submitted,

Thomas P. Gallanis
JEB-UTEA Executive Director