

MEMORANDUM

To: Terry Care
Study Committee on Trust Management of Funds Raised
Through Public Fundraising
From: Steve Willborn
Date: October 3, 2016
Re: Other Relevant ULC Acts

Terry Care asked me to review current Uniform Law Commission acts to see if any might be relevant to this proposed act. I'm not exactly sure what this act is going to cover so the task was difficult. But I decided to use a broad brush to sweep in acts that might be relevant, however tangentially. Here's a first-cut at the assignment.

Jurisdictional Issues. There could be uncertainty about which state has jurisdiction over a particular fund-raising effort. The efforts could span many states, the organizers may be in different states, the website itself may have an ambiguous relationship to a state, etc. This is a standard-fare ULC issue, but these are some acts that deal with the issue directly:

Uniform Adult Guardianship & Protective Proceedings Act
Uniform Child Custody Jurisdiction & Enforcement Act

Conservation of Assets. These fund-raising efforts are often, maybe usually dynamic enterprises, receiving and spending money at the same time. In case of a dispute, it may be necessary to try to protect the trust funds as the case is being heard.

Uniform Asset-Preservation Orders Act

Trustees and Custodians. We may want to call on trust or custodial law to impose duties on those managing these fund-raising efforts. There are a large number of acts that deal with this general issue in a variety of contexts.

Uniform Custodial Trust Act
Uniform Management of Public Employee Retirement Systems Act
Uniform Prudent Investor Act
Uniform Prudent Management of Institutional Funds Act
Uniform Transfers to Minors Act
Uniform Trust Code

Unused Funds. Issues may arise about what to do when funds remain after the purposes of the fund-raising have been satisfied.

Uniform Trust Decanting Act
Revised Uniform Unclaimed Property Act

Entity Issues. The entities raising these funds will often be unincorporated associations of well-meaning people. Or the people raising the funds may create a formal entity to receive and manage the funds, such as an LLC. Issues may arise about how to treat these entities. What liabilities and immunities should they have? The ULC has a variety of acts that deal with these kinds of entity issues. One or more of them may be helpful in thinking about how entities raising funds in this context should be treated.

- Uniform Unincorporated Nonprofit Association Act
- Uniform Limited Cooperative Association Act
- Uniform Limited Liability Company Act
- Uniform Partnership Act
- Uniform Limited Partnership Act