

Alabama Attorneys Complete Work at Annual Uniform Law Conference

By Representative Cam Ward

As they've done each summer since 1892, uniform law commissioners gathered for a full week to discuss—and debate line by line and word by word—legislative proposals drafted by their colleagues during the year. Once again, commissioners from Alabama were heavily involved in the debate of new acts approved by the conference.

This year, the Uniform Law Commission (ULC), at its 118th Annual Meeting in Santa Fe, approved five new acts dealing with issues ranging from a new law that addresses the various penalties and disqualifications that individuals might face incidental to criminal sentencing to a new act regulating the non-probate transfer of real property upon an owner's death.

The ULC has worked for the uniformity of state laws since 1892. It was originally created by state governments to consider state law, determine in which areas of the law uniformity is important and then draft uniform and model acts for consideration by the states. For well over a century, the ULC's work has brought consistency, clarity and stability to state statutory law.

Uniform law commissioners are appointed by every state, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. The commissioners draft proposals for uniform laws on issues where disparity between the states is a problem.

Alabama commissioners **Jerry Bassett, Bill Henning, former Chief Justice Gorman Houston, Tom Jones, state Senator Ted Little, Bob McCurley, Bruce McKee, state Representative Cam Ward, and Joe Colquit** attended the meeting along with more than 200 lawyers, judges, law professors, legislators, and government attorneys appointed in their respective jurisdictions to serve as uniform law commissioners.

The five acts recently approved by the ULC and now available for state enactment include:

The **Uniform Collateral Consequences of Conviction Act** addresses the various penalties and disqualifications that individuals face incidental to criminal sentencing, which are often known as “collateral consequences” and include such penalties as disqualification from voting, prohibitions from running for office, exclusion from certain types of employment, etc. The provisions in the act are largely procedural, and designed to rationalize and clarify policies and provisions which are already widely accepted by the states. The act includes provisions to ensure that defendants are aware of the existence of collateral sanctions before sentencing.

The **Uniform Real Property Transfer on Death Act** provides a mechanism for the

non-probate transfer of land. The act allows an owner of real property to pass the property simply and directly to a beneficiary on the owner's death without probate. The property passes by means of a recorded transfer on death (TOD) deed. During the owner's lifetime, the beneficiary of a TOD deed has no interest in the property and the owner retains full power to transfer or encumber the property or to revoke the deed.

The **Uniform Law Enforcement Access to Entity Information Act** is designed to be a substitute for the Incorporation Transparency and Law Enforcement Assistance Act (S.569), currently pending in Congress (co-sponsored by senators Levin, Grassley and McCaskill). S.569 would require virtually all corporations and limited liability companies to file “beneficial ownership” information with the secretary of state. The Uniform Act, a joint project with the ULC and the American Bar Association Committee on Corporate Laws, and supported by the National Association of Secretaries of State, would preserve the traditional confidentiality of entity ownership and would instead require the filing of the name of an individual (a records-contact) who would be responsible for obtaining, maintaining and verifying record ownership information.

The **Uniform Collaborative Law Act** will regulate the use of collaborative law, a form of alternative dispute resolution that is becoming more popular in the states. As one of the commissioners serving on this drafting committee I am glad to see over two years of work finally come to fruition. Collaborative law is now used mainly in family law disputes, but its practice has spread to other areas of the law, including the settlement of contract and insurance disputes. States have approached the regulation of collaborative law through a variety of means, including statutes, court rules and independent boards. This new act standardizes the

most important features of collaborative law participation, mindful of ethical concerns as well as questions of evidentiary privilege.

The **Uniform Statutory Trust Entity Act** governs the use of statutory trusts as a mode of business organization. A statutory trust provides a flexible business entity that can be used as an alternative to the partnership, limited partnership, limited liability corporation and corporate forms of organization. Statutory trusts are commonly used in the mutual fund and securitization industries, and are also used in certain tax-advantaged real estate transactions. The Uniform Act modernizes the existing, but outdated, laws governing these types of entities.



A portion of the **Uniform Business Organizations Act** (UBOA), containing language to harmonize common provisions found throughout existing business organization acts, such as the Uniform Partnership Act and the Uniform Limited Partnership Act, was also approved. This portion of the project establishes common definitions, and makes the mechanics of filing, qualification of foreign entities and entity transaction provisions on mergers, interest exchanges and domestications consistent between the various business entity acts. Work continues on the rest of the UBOA.

Information on all of these acts, including the approved text of each act, can be found at the ULC Web site at www.nccusl.org.

Once an act is approved by the ULC, it is officially promulgated for consideration by the states, and the legislatures are urged to adopt it. Since its inception, the ULC has been responsible for more than 200 acts, among them such bulwarks of state statutory law as the Uniform Commercial Code, the Uniform Probate Code, the Uniform Partnership Act and the Uniform Interstate Family Support Act.

Alabama joined the ULC in 1906, and since that time has enacted more than 58 uniform or model acts promulgated by the ULC. Alabama currently has nine uniform law commissioners appointed to the ULC: Jerry Bassett, former Tuscaloosa Circuit Judge Joe Colquit, Bill Henning, former Chief Justice Gorman Houston, Tom Jones, state Senator Ted Little, Bob McCurley, Bruce McKee, and state Representative Cam Ward.

The procedures of the ULC ensure meticulous consideration of each uniform or model act. The ULC usually spends a minimum of two years on each draft. Sometimes, the drafting work extends much longer. No single state has the resources necessary to duplicate this meticulous, careful, non-partisan effort.

The ULC continues to strengthen the role of state law in our federal system. As new technology wears away geographical borders and matters of law implicate more than one state, consistency in rules and procedures becomes ever more critical. The Uniform Law Commission continues its commitment to help sustain the independence of the states, while achieving a uniform legal system for the nation. ▲▼▲



***Representative Cam Ward** serves in the Alabama House of Representatives for District 14, which includes Bibb, Chilton, Jefferson and Shelby counties, and is the executive director of the Alabaster Industrial Development Board. He is a graduate of Troy University and the Cumberland School of Law. Representative Ward is on the Executive Committee for the Alabama Law Institute and one of Alabama's five commissioners on the National Conference of Commissioners on Uniform State Laws. He also volunteers time as chair of the Alabama Autism Task Force.*

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