

WEST VIRGINIA COMMISSION ON UNIFORM STATE LAWS

**REPORT TO THE WEST VIRGINIA LEGISLATURE
REGULAR SESSION 2017**

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I. INTRODUCTION

The West Virginia Commission on Uniform State Laws submits this annual report to the West Virginia Legislature in accordance with West Virginia Code, § 29-1A-4. Since the establishment of the West Virginia Commission on Uniform State Laws, its members have regularly and actively participated in the Uniform Law Commission (“ULC”) as required by Section 29-1A-4 of the West Virginia Code. The ULC was formerly known as the “National Conference of Commissioners on Uniform State Laws.” From the Uniform and Model Acts promulgated by the ULC, the West Virginia Commissioners have selected those that they think would be most immediately beneficial to the State of West Virginia and have worked with the state Legislature for their passage. Over the years, the West Virginia Legislature has enacted over ninety-one Acts drafted by the Uniform Law Commission.

II. HISTORY OF NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

In 1889, the New York Bar Association appointed a special committee on uniformity of laws. In the next year, the New York Legislature authorized the appointment of Commissioners “to examine certain subjects of national importance that seemed to show conflict among the laws of the several commonwealths, to ascertain the best means to effect an assimilation or uniformity in the laws of the states, and to determine whether it would be advisable for the State of New York to invite the other states of the Union to send representatives to a convention to draft uniform laws to be submitted for approval and adoption by the several states.” In that same year, the American Bar Association adopted a resolution recommending that each state provide for Commissioners to confer with the Commissioners of other states on the subject of uniformity of legislation on certain subjects. The first National Conference of Commissioners on Uniform State Laws convened in Saratoga, New York in August of 1892: three days preceding the annual meeting of the American Bar Association.

West Virginia joined the National Conference in 1909, 108 years ago. By 1912, every state was participating. Over the years, the National Conference has steadily increased its contribution to state law and has attracted some of the best of the profession. In 1912, Woodrow Wilson became a member. This, of course, was before his more notable political prominence and service as President of the United States. Justices of the Supreme Court of the United States (Louis Brandeis, Wiley Rutledge, and William Rehnquist) have been members. Legal scholars, such as Professors Wigmore, Williston, Pound, and Bogart, have served in large numbers. This distinguished body has guaranteed that the projects of the National Conference are of the highest quality and are influential upon the process of the law.

Over its 124 years, the Uniform Law Commission has developed into a confederation of state interests. It arose out of the concerns of state government for the improvement of the law and for better interstate relationships. Its sole purpose has been, and remains, service

to state government and improvement of state law.

III. THE OPERATION OF THE NATIONAL CONFERENCE

The ULC convenes as a body once a year. It meets for a period of six days, usually in July. Between the annual meetings, study committees and drafting committees composed of commissioners meet to supply the working drafts of statutes which are considered at the annual meeting. The various drafts are accessible on the Internet at www.uniformlaws.org. At each annual meeting, the latest drafts of the drafting committees are read and debated. Normally, each Act is considered over a minimum period of two years. No Act becomes officially recognized as a Uniform Act until the ULC is satisfied that it is ready for consideration in the state legislatures. It is then put to a vote of the state delegations, during which each state caucuses and votes as a unit.

The governing body of the ULC is the ULC Executive Committee, which is composed of the officers, certain ex-officio members, and members appointed by the President of the ULC. Certain activities are conducted by standing committees. For example, the Committee on Scope and Program considers all new subject areas for possible Uniform Acts. The Legislative Committee assists the State Commissioners in their work with their state legislatures.

A small staff located in Chicago operates the national office of the ULC. The national office handles meeting arrangements, publications, legislative liaison, and general administration for the ULC. The total staff numbers only fifteen people.

The ULC maintains relations with several sister organizations. Official liaison is maintained with the American Bar Association, which contributes an amount each year to the operation of the ULC. Liaison is also maintained with the American Law Institute, the Council of State Governments, and the National Conference of State Legislatures on an ongoing basis. The Uniform Commercial Code is a continuing joint project of the ULC and the American Law Institute. Liaison and activities may be conducted with other associations as interests and activities necessitate.

IV. ACTIVITIES OF THE WEST VIRGINIA COMMISSION ON UNIFORM STATE LAWS

A. Annual Meeting of the Commission

The West Virginia Commissioners are Judge Frederick P. Stamp, Jr., of Wheeling, and Professor Vincent P. Cardi of Morgantown who succeeded John L. McClagherty of Charleston. Commissioner Richard Ford of Lewisburg died in December 2016, and his seat is vacant. Vincent P. Cardi is Chairperson of the West Virginia Commission, and Frederick Stamp, Jr., is Secretary. The Commissioners had their annual meeting in July 2016.

B. Uniform Law Commission Offices Held by Commissioners from West Virginia and Committee Memberships

The commissioners from West Virginia serve on several committees of the ULC.

Richard Ford had been a member of the Legislative Council, served for two years on the Executive Committee, and was Secretary of the Uniform Law Commission for two years. Vincent Cardi is the Legislative Liaison Member for West Virginia, charged with working with the legislature on enactment of uniform laws.

Former Commissioner John L. McClaugherty of Charleston served two years as Chairman of the Executive Committee and served two years as President of the ULC, an honor for lawyers second only to the Presidency of the American Bar Association.

Fred Stamp was the Chairperson of the Study Committee on Conflicts of Laws-Limitations Act and the Employees and Student Online Privacy Act. He has served on the Scope and Program Committee, the Drafting Committee for the Uniform Correction or Clarification of Defamation Act, the Uniform Athlete Agents Act, and the Oversight of Charitable Assets Act. He presently serves as the chair of the Committee on Review of Conference Acts, and is a member of the Committee on Federalism and State Law. Judge Frederick Stamp was, until recently, a Trustee of the Uniform Law Foundation.

Vincent Cardi served on the Study Committee for Regulation of Medico-Legal Death Investigations and wrote the committee's final report. He was a member of the Study Committee on Notice and Repair of Construction Defects, the Study Committee on Computer Database Retrieval System for Land Records, the Drafting Committee for Fraudulent Transfers Act, and the Drafting Committee on Uniform Certificate of Title Act for Vessels. He is presently a member of the Enactment Committee for the Uniform Certificate of Title Act for Vessels, and he is Chairperson of the Drafting Committee for Unauthorized Disclosure of Intimate Images Act. He chaired Study Committee on Criminalization of Revenge Pornography.

The tasks of the three commissioners, among other duties that arise as their Conference work demands, are to:

- (1) Meet at least once every two years as required by § 29-1A-3 of the West Virginia Code.
- (2) Participate as members of the Uniform Laws Commission as required by § 29-1A-4 in drafting Uniform and Model State Acts and other functions of the ULC.
- (3) Work with the West Virginia Legislature's Joint Legislative Commission on Interstate Cooperation by
 - a. reporting on the work of the ULC,
 - b. recommending to this Joint Legislative Commission Uniform and

Model Acts produced by the ULC that the West Virginia Commissioners think the Commission should introduce in the Legislature for enactment, and

- c. working with this Joint Legislative Commission in advising and assisting the Commission in considering these Uniform and Model Acts.
- (4) Testify on the Uniform and Model Acts that have been introduced by the Joint Legislative Commission (or by other legislative committees) before the Judiciary Committee or other committees that have taken up these acts when needed, and otherwise assist the legislature in gathering information on and understanding these acts.
- (5) Make this annual report about the activities of the West Virginia Commission on Uniform State Laws to the Legislature as called for under § 29-1A-4 of the statute which creates the Commission.

V. THE WEST VIRGINIA COMMISSIONERS AND THE ANNUAL CONFERENCE OF THE UNIFORM LAW COMMISSION

Commissioners Stamp and Cardi attended the 124th Annual Conference of the Uniform Law Commission in July of 2016. At the conference, they worked with other commissioners considering Uniform and Model Acts being presented to the Conference by various committees of state commissioners who have been working on the particular acts. At the meeting, the work of the Conference focused on the following:

- (1) discussing areas of social, commercial, and legal concerns which appear to be ripe for new state legislation, and deciding whether to appoint committees to study and make recommendations as to whether new state statutes should be drafted to address these problem areas;
- (2) deliberating on presentations from existing study committees as to whether a permanent drafting committee should be appointed to actually draft Acts on topics which have been studied over the last several years;
- (3) examining line-by-line preliminary drafts of Acts produced by existing drafting committees on various problems, and debating the policy implications of these drafts, the language of the drafts, and other matters surrounding these works in progress; and
- (4) participating in line-by-line readings of final drafts which are being presented to the conference for approval by the drafting committees.

Once the commissioners approved the final drafts, they sent the resulting Uniform and Model Acts to the American Bar Association for its review.

The leadership of the ULC recommended to the Commissioners attending the conference a list of “targeted acts,” which are Uniform and Model Acts that they think are particularly ripe for presentation to state legislatures.

Throughout the conference, special conference committees and subcommittees met regularly during the morning, day, and evenings on particular tasks involving conference business.

During the year, committees of Commissioners met, and are continuing to meet, to study problem areas and to draft Model Acts.

A. Creation of New Study Committees

At the 2016 conference and at the winter meeting of the Executive Committee, six new study committees were appointed to consider subjects for possible future drafting. These included:

(1) Study Committee on an Anti-SLAPP Act

This committee will study the need for and feasibility of drafting a uniform or model Anti-SLAPP law. The acronym SLAPP stands for *Strategic Lawsuit Against Public Participation*, meaning a lawsuit of dubious merit brought for the purpose of silencing, intimidating, or retaliating against a defendant who has done nothing more than exercise their lawful rights to free speech and freedom to petition or similar rights. Anti-SLAPP laws seek to protect such rights by allowing such a defendant to make a motion at the outset of the litigation for an expedited review by the Court, with the burden shifted to the plaintiff to show that the lawsuit is meritorious and that the plaintiff will likely prevail at trial.

(2) Study Committee on Event Data Recorders in Cars

This Committee will study the need for and feasibility of uniform or model state legislation concerning event data recorders in cars. Event data recorders, also known as “EDRs”, “black boxes,” and “sensing and diagnostic modules,” record information, such as vehicle speed, occupants’ seat belt use, vehicle location, and brake usage. The Committee will consider the issues raised by the installation of EDRs, including privacy issues; disclosure requirements; ownership of data; use of EDR data as evidence; access to and data retrieval for use by law enforcement or others; use required by or retrieved by insurers; and use of EDR data as evidence in legal proceedings.

(3) Study Committee on Identity Management in Electronic Commerce

This study committee will study the need for and feasibility of uniform or model state legislation concerning identity management in electronic commerce. Identity management is a set of processes to manage the identification, authentication, and authorization of individuals, legal entities, devices, or other subjects in online and

other electronic contexts. The Committee will consider whether there are viable uniform or model legal approaches to address concerns about trustworthiness, including, for example, disclosure requirements that allow parties to accurately assess risks; giving various legal effects to certain types of conduct that might enhance or detract from trust; and imposing requirements that govern conduct to ensure trust. The Committee's study will also include examining the need for and feasibility of state law governing the level of security provided by a party to an identity management transaction or by a trust service provider; defining the legal effect of electronic identification and authentication; interstate recognition of an electronic transaction under particular identification and authentication standards; allocation of liability; and remedies for a party's failure to meet its obligations.

(4) Study Committee on Installment Land Contracts

This Study Committee will consider the need for and feasibility of state legislation on installment land contracts, including the nature of the rights and responsibilities held by a purchaser and a seller under an installment land contract, and the remedies available to the seller following purchaser default. Installment land contracts are effectively a form of mortgage substitute. In economic substance, the installment land contract is functionally comparable to a purchase money mortgage in which the seller provides financing of the purchase price. A uniform or model law on the characterization and enforcement of installment land contracts could provide clarity in an area of the law and practice with great practical significance for homebuyers who cannot qualify for institutional mortgage financing.

(5) Study Committee to Amend the Revised Uniform Law on Notarial Acts

This Study Committee will consider the need for and feasibility of further amendment to the Revised Uniform Law on Notarial Acts to authorize American notaries to perform notarial acts where the individual appears before the notary by audio, video, or through the use of other technologies.

(6) Study Committee on Trust Management of Funds Raised through Public Fundraising

This Committee will study the need for and feasibility of uniform or model state legislation concerning the trust management of funds raised for individuals and families by public fundraising efforts, such as crowdfunding. This study is prompted by the growing number of appeals to the public to provide funds for a person or family in need, many prompted by the rise of online crowdfunding sites. The Committee will consider whether

uniform or model law should be drafted to provide clear legal rules governing the use of funds raised through such public appeals. In particular, the Committee will examine whether a uniform or model law can usefully and feasibly address the appropriate use of funds; preventing potential misuse of funds; liability of custodians for funds; and disposition of excess funds.

B. Creation of New Drafting Committees

Drafting committees composed of commissioners, with participation from observers, advisors and reporter-drafters, have been meeting and will meet throughout the year. Tentative drafts of the laws are not submitted to the entire Conference until they have received extensive committee consideration. Proposed Acts are subjected to rigorous examination and debate in at least two annual meetings before they become eligible for designation as Conference products.

In 2016, two new drafting committees were created to begin working on new Acts. Commissioner Cardi is Chairperson of one of these two new drafting committees. These committees are:

(1) Drafting Committee to Amend UCC Articles 1, 3, and 9

A joint Committee comprised of members of the Uniform Law Commission and the American Law Institute will draft revisions to Articles 1, 3, and 9 of the Uniform Commercial Code to provide the substantive commercial law rules to support an electronic registry for residential mortgage notes on a national basis with minimal displacement of state laws. Article 3 rules were developed for a paper-based commercial practice in which residential mortgage notes normally are held in portfolio by the lending bank. The Committee will amend Article 3 to accommodate electronic documentation practices in commercial mortgage transactions. Further, the Committee will undertake amendments to Article 9 provisions governing the granting and perfection of security interests in electronic mortgage notes held as collateral; the way security interests attach; priorities; and possession; as well as the transfer of ownership notes and the transfer of rights in the mortgage securing electronic mortgage notes. Finally, the Committee will consider amendments to key definitions in Article 1 to ensure consistency with amendments to Articles 3 and 9.

(2) Drafting Committee on Unauthorized Disclosure of Intimate Images

This drafting committee will create civil remedies relating to the unauthorized disclosure of intimate images. The harms resulting from the unauthorized disclosures of intimate images range from embarrassment and anger to severe depression, traumatic stress syndrome, and suicide. The injuries may also include loss of employment and inability to find employment. Frequently, postings of these intimate images are accompanied by the victim's name and address, leading to threats and stalking. The inherent potential for unauthorized disclosures of intimate images over the internet and other technologies present a problem that may transcend state boundaries. As of March 31, 2016, only nine states have enacted laws that provide a private right of action against the person making the unauthorized posting. The intentional public dissemination of intimate images without the subject's consent is not clearly a tort in some jurisdictions. West Virginia Commissioner, Vincent Cardi, is Chair of this drafting committee.

C. Acts Reviewed and Debated at the Conference

Commissioners Stamp and Cardi spent most of a week at the annual meeting with the commissioners from other states discussing the following evolving acts, and where drafts had been produced, reading and vigorously debating them for possible final consideration in the next few years:

(1) Criminal Records Accuracy

Many developments concerning criminal records have occurred over the past twenty years, including the creation of the National Criminal Background Check System in 1993, the establishment of criminal history repositories in all states, and the increasing use of criminal record checks in connection with eligibility for employment, professional and occupational licenses, credit worthiness, and other non-criminal justice purposes. Recent studies have demonstrated that criminal records accessed for these purposes may be inaccurate or incomplete. Some of the causes of inaccuracy or incompleteness are: lack of information on dispositions after an arrest or other charge has been entered in a database; data entry errors resulting, e.g., in an incorrect listing of the offense, or multiple listings of the same offense, or attribution of an offense to a wrong individual; criminal identity theft (when an arrested person gives another person's identifying information); and searches for criminal record information resulting in one person's criminal record information appearing in search results

initiated for a different individual. This drafting committee will draft an act that seeks to improve the accuracy of criminal records.

(2) Directed Trust

An increasingly common practice in contemporary estate planning and asset management is the naming of a trustee that is given custody of the trust property, but with one or more of the investment, distribution or administration functions of the trusteeship being given to a person or persons who are not formally designated as trustees. Much uncertainty exists about the fiduciary status of nontrustees who have control or potential control over a function of trusteeship and about the fiduciary responsibility of trustees with regard to actions taken by such nontrustees. Existing uniform trust and estate statutes inadequately address the issues and are at risk of becoming obsolete unless they are amended to take account of these developments. This Committee will draft legislation on directed trusts and also will draft conforming amendments to other uniform trust and estate acts as appropriate.

(3) Revisions to Uniform Guardianship and Protective Proceedings Act

The UGPPA was approved by the ULC in 1982, amended in 1989, and revised in 1997. Nearly 20 states have enacted one or the other version of the act. This drafting committee will revise selected portions of the UGPPA in order to implement some of the guardianship standards recommended by the Third National Guardianship Summit and otherwise to update the act.

(4) Limited Liability Company Protected Series

The committee is drafting an act that confines protected series to limited liability companies. All modern business entities provide the traditional “vertical” shield – protecting the entity’s owners (and their respective assets) from automatic, vicarious liability for the entity’s debts. A “series” limited liability company provides “horizontal” shields – protecting each protected series (and its assets) from automatic, vicarious liability for the debts of the company and for the debts of any other protected series of the company. A horizontal shield likewise protects the series limited liability company (and its assets) from creditors of any protected series of the company. The current draft uses the “module” approach, meaning that the act is intended not to stand alone, but rather to be plugged into the limited liability company statute of an enacting state.

(5) Non-Parental Child Custody and Visitation

State legislation and judicial decisions vary greatly concerning the rights of third parties who are not parents (such as grandparents, stepparents, domestic partners, and siblings) to rights of custody of or visitation with a child. Those rights are also affected by the United States Supreme Court's decision in *Troxel v. Granville*, 530 U.S. 57 (2000), which held that courts must give deference to decisions of fit parents concerning the raising of children, including concerning grandparents' visitation rights. This drafting committee will draft an act concerning the rights of third parties other than parents to custody of or visitation with a child.

(6) Revised Uniform Parentage Act

The ULC adopted the Uniform Parentage Act in 2000, which was a complete revision of a 1973 uniform act. The UPA 2000 has been adopted in 11 states. The UPA covers a number of topics, including: the parent-child relationship, voluntary acknowledgements of paternity, a registry of paternity, genetic testing, proceedings to adjudicate parentage, and children of assisted reproduction. As a result of the recent Supreme Court decision in *Obergefell v. Hodges*, as well as other developments in the states since the last revision of the UPA, this drafting committee will revise the Uniform Parentage Act. The scope of the revision is limited to issues related to same sex couples, surrogacy, and the right of a child to genetic information.

(7) Regulation of Virtual Currency Businesses

This drafting committee will consider the need for and feasibility of drafting state legislation on the regulation of virtual currency businesses, and will examine issues such as licensing requirements; reciprocity; consumer protection; cybersecurity; anti-money laundering; and supervision of licensees. Virtual currency can be simply defined as a form of electronic value, the value of which depends on the market. It is not backed by government (so that it lacks status as legal tender). The interest in virtual currency arises because it is allegedly safer from hacking, often cheaper and faster, and has finality of payment. Virtual currencies have legitimate purposes and can be purchased, sold, and exchanged with other types of virtual currencies or real currencies.

(8) Model Veterans' Court Act

Veterans' courts have been created in a number of judicial districts around the United States to ensure that veterans in the criminal justice system receive the treatment and support necessary to rehabilitate them into being productive members of society. Very few states have legislation on veterans' courts, but many local judicial districts have effectively created veterans' courts by rule or practice. This drafting committee will develop model state legislation that provides guidelines for the establishment of veterans' courts while permitting substantial local discretion necessary to accommodate particular circumstances in different communities. Some of the issues that the model act will address include: what subset of veterans are entitled to diversion into a veterans' court; for what type of offenses is diversion into a veterans' court appropriate; what rights should victims have to participate in proceedings in veterans' courts; and how, in general, should veterans' courts be organized and operated.

VI. NEW ACTS APPROVED BY ULC AND TARGETED ACTS

A. Approval of New Acts and Amendments

At the 2016 meeting, the Commissioners approved the following new Acts and Amendment to Acts for presentation to state legislatures.

(1) Uniform Employee and Student Online Privacy Protection Act:

Today, most individuals have online accounts of some type. These include social media accounts, bank accounts, and email accounts, among others. Generally, when someone asks for access to the login information for, or content of, a personal online account, an individual is free to say no. But that is less true in the employment and educational contexts. Indeed, employers and educational institutions now sometimes ask current and/or prospective employees and students to grant the employer or school access to social media or other name and password protected accounts. The Uniform Employee and Student Online Privacy Protection Act addresses both employers' access to employees or prospective employees' social media and other online accounts accessed via username and password or other credentials of authentication as well as educational institutions' access to students' or prospective students' similar online accounts.

- (2) **Uniform Family Law Arbitration Act:**
States' laws vary when it comes to arbitrating family law matters such as spousal support, division of property, child custody, and child support. The Uniform Family Law Arbitration Act standardizes the arbitration of family law. It is based in part on the Revised Uniform Arbitration Act, though it departs from the RUAA in areas in which family law arbitration differs from commercial arbitration, such as: standards for arbitration of child custody and child support; arbitrator qualifications and powers; protections for victims of domestic violence. This Act is intended to create a comprehensive family law arbitration system for the states. It is an overlay statute meant to work together with the state's existing choice-of-law rules and contractual arbitration law.
- (3) **Revised Uniform Unclaimed Property Act:**
The ULC first drafted uniform state legislation on unclaimed property in 1954. Since then, revisions have been promulgated in 1981 and again in 1995. Many technological developments in recent years as well as new types of potential unclaimed property, such as gift cards, are not addressed in the most current uniform act. The Revised Uniform Unclaimed Property Act updates provisions on numerous issues, including escheat of gift cards and other stored-value cards, life insurance benefits, securities, dormancy periods, and use of contract auditors. The Revised Act provides a comprehensive and extensive set of revisions, including provisions related to: when property is presumed abandoned; which state has custody of property; the recovery of unclaimed property from states by owners; the powers and responsibilities granted to state unclaimed property administrators; and the rights of holders to seek administrative and judicial review of examinations conducted by administrators.
- (4) **Uniform Unsworn Domestic Declarations Act**
The Uniform Unsworn Domestic Declarations Act builds upon the Uniform Unsworn Foreign Declarations Act, which covers unsworn declarations made *outside* the United States. This new Uniform Act permits the use of unsworn declarations made under penalty of perjury in state courts when the declaration was made *inside* the U.S. States that have already enacted the Uniform Unsworn Foreign Declarations Act (UUFDA) should enact this act.
- (5) **Uniform Unsworn Declarations Act**
The Uniform Unsworn Declarations Act builds upon the Uniform Unsworn Foreign Declarations Act (UUFDA), which covers unsworn declarations made outside the boundaries of the United

States, and the Uniform Domestic Declarations Act (UDDA), which covers unsworn declarations made inside the U.S. States that have not enacted the Uniform Unsworn Foreign Declarations Act should enact this Act, which essentially combines both the UUFDA and the UDDA into one comprehensive Act.

(6) Uniform Wage Garnishment Act:

Currently, every state has a different wage garnishment law and process. This means that employers who do business across multiple states must know and abide by a different, and often complex, law for each jurisdiction. If employers make processing errors calculating garnishments, they may face civil penalties. The Uniform Wage Garnishment Act seeks to simplify and clarify wage garnishments for employers, creditors, and consumers by standardizing how the wage garnishment process works and offering plain-language notice and garnishment calculation forms. The UWGA creates a standard system for wage garnishments that is largely removed from the courts, operates efficiently thereby reducing costs, and provides employees with plain-language notification of their rights and obligations as well as providing them with other protections. The UWGA applies only to what is sometimes called a “debt garnishment,” meaning a garnishment by a creditor with a money judgment.

(7) Revised Uniform Law on Notarial Acts: Amendment on Foreign Remote Notarization

The Amendment to the Revised Uniform Law on Notarial Acts authorizes notaries public to perform notarial acts in the state in which they are commissioned for individuals who are located outside the United States. The amendment is optional for the states. The amendment requires the use of audio- and video-technologies for real-time communication, and requires the notary to record the interaction. It authorizes the commissioning agency to regulate the technologies used. The act of the individual in making the statement or signing the record must not be prohibited in the foreign state in which the individual is physically located. The certificate affixed by the notary to the record must indicate that the notarial act took place while the individual was located in a foreign country.

B. Targeted Acts

The Executive Committee of the ULC listed fourteen Uniform and Model Acts as “Targeted Acts,” Acts that they think are especially timely for state adoption this year. Following is the list of 2016 Targeted Acts not yet adopted in West Virginia.

(1) Uniform Collaborative Law Act (2009)(2010)

The Uniform Collaborative Law Act (UCLA) standardizes the most important features of collaborative law practice, mindful of ethical concerns as well as questions of evidentiary privilege. In recent years, the use of collaborative law as a form of alternative dispute resolution has expanded from its origin in family law to other areas of law, including insurance and business disputes. As the practice has grown it has come to be governed by a variety of statutes, court rules, formal, and informal standards. A comprehensive statutory frame work is necessary in order to guarantee the benefits of the process and to further regulate its use. The Act encourages the development and growth of collaborative law as an option for parties that wish to use it as a form of alternative dispute resolution. The Act mandates the essential elements of disclosure and discussion between prospective parties in order to guarantee that all parties enter into the collaborative agreement with informed consent. The need for attorneys to provide clear and impartial descriptions of the options available to the party prior to deciding upon a course of action is stressed throughout the Act. Additionally, the Act mandates that the collaborative agreement contains the disqualification provisions that are essential to the collaborative process. The disqualification requirements create incentives for cooperation and settlement. By standardizing the collaborative process, the Act secures the benefits of collaborative law for the parties involved while providing ethical safeguards for the lawyers involved. *UCLA enacted in 15 states: Alabama, Arizona, District of Columbia, Florida, Hawaii, Maryland, Michigan, Montana, Nevada, New Jersey, North Dakota, Ohio, Texas, Utah, and Washington.*

(2) Uniform Deployed Parents Custody and Visitation Act (2012)

The increased deployment of service members has raised difficult child custody issues that profoundly affect both children's welfare and service members' ability to serve their country efficiently. The Uniform Deployed Parents Custody and Visitation Act (UDPCVA) standardizes and simplifies the rules covering custody and visitation issues for deployed parents. The goal of the UDPCVA is to facilitate expeditious and fair disposition of cases involving the custody rights of a member of the military. One of the key points of the new Act provides that the mere absence of a military parent from a state will not be used to deprive that state of custody jurisdiction. For most cases, a move is a purely voluntarily thing. For service members, however, a move is not voluntary but is made under a military order. Such an involuntary move should not lead to the loss of jurisdiction by a state most familiar and involved with the child's best interests. The

UDPCVA ultimately promotes a just balance of interests – protecting the rights of the service member, the other parent, and, above all, the best interests of the children involved. *The UDPCVA has been enacted in 12 states: Arkansas, Colorado, Iowa, Minnesota, Nebraska, Nevada, North Carolina, North Dakota, South Carolina, South Dakota, Tennessee, Utah.*

(3) Uniform Electronic Legal Material Act (2011)

The Uniform Electronic Legal Material Act (UELMA) addresses many of the concerns posed by the publication of state primary legal material online. UELMA provides a technology-neutral, outcomes-based approach to ensuring that online state legal material deemed official will be preserved and will be permanently available to the public in unaltered form. It furthers state policies of accountability and transparency in providing legal information to the public. The act applies to electronic legal material that has been designated official. Four categories of basic state legal material are specifically named in the act, including the state constitution, state session laws, codified laws, and agency regulations which have the effect of law. The state has discretion to include any other publications it desires.

The Act requires that official electronic legal material be:

1. *Authenticated*, by providing a method to determine that it is unaltered;
2. *Preserved*, either in electronic or print form; and
3. *Accessible*, for use by the public on a permanent basis.

The UELMA does not require specific technologies, leaving the choice of technology for authentication and preservation up to the states. *The UELMA has been enacted in 13 states: Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Minnesota, Nevada, North Dakota, Oregon, Pennsylvania.*

(4) Uniform Emergency Volunteer Health Practitioners Act (2007)

The Uniform Emergency Volunteer Health Practitioners Act (UEVHPA), first approved in 2006, allows state governments to give reciprocity to other states' licensees on emergency services providers so that covered individuals may provide services without meeting the disaster state's licensing requirements. Amendments to UEVHPA were approved in 2007 to complete previously reserved sections addressing the civil liability of disaster volunteers and the care of volunteers who are injured, become ill or die while delivering emergency services. With regard to civil liability, the act provides two options. In "Alternative A," a volunteer health practitioner is not liable for acts or omissions, nor

can any party be held vicariously liable for a volunteer practitioner's acts or omissions, unless the conduct in question rises to the level of willful misconduct, or wanton, grossly negligent, reckless, or criminal conduct, represents an intentional tort; involves a breach of contract, is a claim by a host or deploying entity, or is an act or omission relating to the operation of a motor vehicle, vessel, aircraft, or other vehicle. "Alternative B" utilizes the same basic exclusions, but caps the compensation a volunteer can receive in connection with the emergency (not including reimbursement of reasonable expenses) at \$500 per year, and does not include the limitation on vicarious liability. It is anticipated that enacting states will choose the alternative that most closely tracks their existing state provisions regard "Good Samaritan" liability protection and/or each state's implementation of federal law on this subject. The 2007 Amendments also provide that a volunteer health practitioner who is not otherwise covered by the workers' compensation laws of the host or deploying state may elect to be deemed an employee of the host state for purposes of making a claim under the host state's workers' compensation system. The act directs enacting states to coordinate implementation of this coverage with other enacting states.

UEVHPA has been enacted in 16 states: Arkansas, Colorado, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Louisiana, Nevada, New Mexico, North Dakota, Oklahoma, Tennessee, Texas, U.S. Virgin Islands, Utah.

(5) Uniform Fiduciary Access to Digital Assets Act Revised (2015)

A fiduciary is a person appointed to manage the property of another person, subject to strict duties to act in the other person's best interest. Common types of fiduciaries include executors of a decedent's estate, trustees, conservators, and agents under a power of attorney. The Revised Uniform Fiduciary Access to Digital Assets Act extends the traditional power of a fiduciary to manage tangible property to include management of a person's digital assets. The act allows fiduciaries to manage digital property like computer files, web domains, and virtual currency, but restricts a fiduciary's access to electronic communications such as email, text messages, and social media accounts unless the original user consented in a will, trust, power of attorney, or other record. *The RUFADAA has been enacted in 20 states: Alaska, Arizona, Colorado, Connecticut, Florida, Hawaii, Idaho, Indiana, Maryland, Michigan, Minnesota, Nebraska, New York, North Carolina, Oregon, South Carolina, Tennessee, Washington, Wisconsin, Wyoming.*

(6) Uniform Foreign-country Money Judgments Recognition Act (2005)

This Act is a revision of the Uniform Foreign Money-Judgments Recognition Act of 1962, which codified the most prevalent common law rules with regard to the recognition and enforcement of money judgments rendered in other countries. Recognition in an American state court is a step towards enforcement of the judgment against assets of the judgment debtor. This revision continues the basic policies and language of the 1962 Act; the main purpose of this modest revision is to correct and clarify gaps in the 1962 Act revealed in the case law. For example, the 2005 Act provides that a petitioner for recognition has the burden of proving that the judgment is entitled to recognition under the standards of the Act, and that any respondent resisting recognition and enforcement has the burden of proof respecting denial of recognition. Burdens of proof were not addressed in the 1962 Act. The 2005 Act has statutes of limitations provisions not found in the 1962 Act at all. The result is a more comprehensive Act and better response to the conditions of international trade. *The UFCMJRA has been enacted in 22 states: Alabama, Arizona, California, Colorado, Delaware, District of Columbia, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Michigan, Minnesota, Montana, Nevada, New Mexico, North Carolina, Oklahoma, Oregon, Virginia, and Washington.*

(7) Uniform Limited Liability Company Act (2006)

The Uniform Limited Liability Company Act (2006) (ULLCA 2006) replaces the Uniform Act of 1996. A limited liability company (LLC) is an entity that shares the limitation of liability characteristic of a corporation with partnership-like capacity to structure the entity by agreement rather than as prescribed by statute. Like a partnership, a limited liability company does not pay federal income tax on its profits. Its distributions of income to members are taxed as their income. This characteristic has made limited liability companies very popular throughout the U.S. Like the 1996 Act, ULLCA 2006 authorizes the filing of a certificate of registration to create an LLC. The terms of the Act, including fiduciary obligations and contractual obligations, govern the relationships between members and between members and managers, if there are designated managers. Most of the rules, as in the 1996 Act, are default rules. Express provisions of the operating agreement prevail over most statutory rules. These are some of the changes the ULLCA 2006 makes over the 1996 Act: the 2006 Act leaves the designation of a manager-managed LLC to

the terms of the agreement rather than the certificate of registration; electronic records and signatures are recognized; the standard of care becomes ordinary care subject to the business judgment rule; there is the ability to certificate member transferable interests for the purpose of free transfer as investment securities; it is possible to eliminate the duty of loyalty or duty of care in an agreement, so long as not “manifestly unreasonable;” a member may bring a direct action against the company for misfeasance, not just a derivative action; a company threatened by a derivative action may form a litigation committee to assume the burden of investigating the action and take certain actions on behalf of the company in its best interests. *The ULLCA has been enacted in 17 states: Alabama, California, Connecticut, District of Columbia, Florida, Idaho, Illinois, Iowa, Minnesota, Nebraska, New Jersey, North Dakota, South Dakota, Utah, Vermont, Washington, Wyoming.*

(8) Revision of Uniform Limited Partnership Act (2001)

The Uniform Limited Partnership Act (2001) (ULPA) updates limited partnership law to reflect modern business practices by allowing for greater variety and flexibility in the formation and management relationships within these entities. The ULPA allows for the use of a limited partner’s name in the entity’s name, and authorizes family limited partnerships, entities which by nature require entrenched management and passive limited partners. It shifts default liability away from limited partners by allowing for limited liability limited partnership status, and allows for easier dissolution upon the consent of all general partners together with a number of limited partners owning a majority of the rights to distributions. The ULPA furthers estate planning considerations by restricting the ability of a limited partner to disassociate from an entity prior to its termination, except for specific circumstances. Finally, the ULPA eliminates the previous rule requiring a termination date to be included in a limited partnership certificate, thereby allowing for the default creation of a perpetual entity. ULPA is also a free-standing, comprehensive act, no longer dependent upon general partnership law for rules that are not contained within ULPA. The ULPA represents a significant revision of limited partnership law to reflect modern usages, makes the limited partnership even more appealing to business ventures and estate planners, and will enhance the business climate of those states which adopt it. *RULPA has been enacted in 20 states including Alabama, Arkansas, California, District of Columbia, Florida, Hawaii, Idaho, Illinois, Iowa, Kentucky, Maine, Minnesota, Mississippi, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Utah, and Washington.*

(9) Uniform Military and Overseas Voters Act (2010)

Military personnel and overseas civilians face a variety of challenges to their participation as voters in U.S. elections, despite repeated congressional and state efforts to facilitate their ability to vote. The federal Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA) and Military and Overseas Voter Empowerment Act of 2009 (MOVE), as well as the various state efforts, have not been wholly effective in overcoming difficulties that these voters face. Further, American elections are conducted at the state and local levels under procedures that vary dramatically by jurisdiction, and many are conducted independent of the federal elections to which UOCAVA and the MOVE Act do apply. Lack of uniformity, and lack of application of the federal statutes to state and local elections, complicates efforts to more fully enfranchise these voters. The 2010 Uniform Military and Overseas Voters Act (UMOVA) establishes reasonable, standard timetables for application, registration, provision of ballots and election information for covered voters, and submission of ballots, and provides for the determination of the address that should be used for active-duty military and overseas voters. The act simplifies and expands, in common sense fashion, the class of covered voters and covered elections. UMOVA allows voters to make use of electronic transmission methods for applications and receipt of registration and balloting materials, tracking the status of applications, and expands use of the Federal Post Card Application and Federal Write-In Absentee Ballot. Finally, UMOVA obviates non-essential requirements that could otherwise invalidate an overseas ballot. The new Act uses and builds upon the key requirements of UOCAVA and MOVE, and extends the important protections and benefits of these acts to voting in applicable state and local elections. *UMOVA has been enacted in 16 states: California, Colorado, District of Columbia, Hawaii, Kentucky, Missouri, Montana, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, and Utah.*

(10) Uniform Powers of Appointment Act (2013)

A power of appointment is an estate planning tool that permits the owner of property to name a third party and give that person the power to direct the distribution of that property among some class of permissible beneficiaries. It is an effective and flexible technique used in a wide variety of situations, but there is very little statutory law governing the creation and use of powers of appointment. Instead, estate planning attorneys must rely on a patchwork of state court decisions. The drafters of the Uniform Powers of Appointment Act (UPoAA) did not set out to change the law, but rather to codify the existing common law, relying heavily on the Restatement (Third) of Property: Wills and other Donative Transfers. Therefore, estate planning attorneys will already be familiar with the act's provisions, and are likely to welcome the legal certainty that would result from its enactment. *UPoAA has been enacted in six states: Colorado, Missouri, Montana, New Mexico, North Carolina, Virginia.*

(11) Uniform Act on Prevention of and Remedies for Human Trafficking (2013)

Human trafficking – a form of modern day slavery – is a global concern that affects the United States on all levels: federal, state, and local. Human trafficking has become the second fastest growing criminal activity in the United States, behind only drug trafficking. While every state has laws regarding human trafficking, these laws vary greatly in both substance and scope. Comprehensive and uniform criminal laws are needed to stop human trafficking both on the supply side and the demand side. But criminal penalties alone are not a sufficient response to the harms of human trafficking. Without support, victims are less likely to be willing to assist police and prosecutors. Without housing, counseling, and other help, victims may be forced back to the traffickers. Without awareness and planning, the public, state agencies, and other organizations cannot effectively coordinate efforts to stop trafficking.

The new Uniform Act on the Prevention of and Remedies for Human Trafficking (UAPRHT) provides the three components necessary for ending human trafficking: (1) comprehensive criminal provisions which focus on criminalizing specific conduct and which sets out penalties for that conduct; (2) provisions for victim services which create protections for victims of human trafficking; and (3) the promotion of coordinated state activities to educate the public and develop a system of victim services. West Virginia has enacted some portions of this Act. *UAPRHT 2013*

has been enacted in seven states including Delaware, Louisiana, Montana, New Hampshire, North Dakota, Pennsylvania.

- (12) **Uniform Voidable Transactions Act (2014)**
Amendments to the Uniform Voidable Transactions Act (formerly the Uniform Fraudulent Transfer Act) address a small number of narrowly-defined issues, and is not a comprehensive revision. Amendments include a new Section 10, which sets forth a choice of law rule for claims of the nature governed by the Act, as well as the addition of uniform rules allocating the burden of proof and defining the standard of proof with respect to claims and defenses under the Act. *Amendments to UVTA have been enacted in nine states: California, Georgia, Idaho, Iowa, Kentucky, Minnesota, New Mexico, North Carolina, North Dakota.*
- (13) **Uniform Athlete Agents Act, Revised (2016)**
The Revised Uniform Athlete Agents Act (2015) is an update of the Uniform Athlete Agents Act of 2000, which has been enacted in 42 states. The 2000 Act governs relations among student athletes, athlete agents, and educational institutions, protecting the interests of student athletes and academic institutions by regulating the activities of athlete agents. The Revised Act makes numerous changes to the original act, including expanding the definition of “athlete agent” and “student athlete;” providing for reciprocal registration between states; adding new requirements to the signing of an agency contract; and expanding notification requirements. *UAAA enacted in three states: Alabama, Idaho, Washington*
- (14) **Uniform Collateral Consequences of Conviction Act (2010)**
The Uniform Collateral Consequences of Conviction Act improves the understanding of penalties that attach when an individual is convicted of an offense, and in appropriate circumstances, offers a mechanism to provide partial relief from the disabilities. The Act facilitates notification of collateral consequences before, during, and after sentencing. Under the provisions of the Act, states are to create a collection of all collateral consequences, with citations and descriptions of the relevant statutes. Individuals will be advised of the particular collateral consequences associated with the offense for which they are charged at or before arraignment. Notice is also to be given at the time of sentencing, and if an individual is sentenced to prison, at the time of release. The Act also provides mechanisms for relieving collateral sanctions imposed by law. The Act creates an “Order of Limited Relief,” designed to relieve an individual from one or more collateral consequence based on a showing of fitness for reentry. The Order does not automatically remove the consequence, but does remove the automatic

disqualification imposed by law. A state agency remains able to disqualify an individual on a case by case basis. The Act also creates a Certificate of Restoration of Rights. The Certificate is granted to individuals who demonstrate a substantial period of law-abiding behavior consistent with successful reentry and desistance from crime. Issuance of a Certificate facilitates reintegration of those individuals who have demonstrated an ability to live a lawful life. The Uniform Act was approved by the ULC in 2009, and amended in 2010. *UCCCA has been enacted in one state: Vermont.*

(15) Uniform Power of Attorney Act (2006)

The Uniform Power of Attorney Act (UPOAA) replaces the 1969 Uniform Durable Power of Attorney Act, the Uniform Statutory Form Power of Attorney Act and provisions on power of attorney in the Uniform Probate Code. Durable powers of attorney have been allowed only since the late 1960s to early 1970s in almost every state. A durable power survives the incapacity of the principal to avoid the need to bring expensive and time-consuming guardianship or conservatorship actions to care for the principal's assets. The named agent steps in the same way a guardian or conservator would. The 1969 Act was originally enacted in almost every state. But amendments from state to state have eroded uniformity between the states. UPOAA requires that certain powers be expressly and specifically conferred rather than be general powers; this eliminates questions about the agent's authority and are cautionary in intent. UPOAA provides a form power of attorney that must be accepted by any third party. There are civil penalties for refusal to accept if the third party has assets of the principal. There are other provisions that protect the principal from a dishonest agent. *UPOAA 2006 has been enacted in 21 states: Alabama, Arkansas, Colorado, Connecticut, Hawaii, Idaho, Iowa, Maine, Maryland, Montana, Nebraska, Nevada, New Mexico, Ohio, Pennsylvania, South Carolina, Utah, Virginia, Washington, West Virginia, and Wisconsin.*

VII. RECOMMENDATIONS BY THE WEST VIRGINIA COMMISSION ON UNIFORM STATE LAWS FOR WEST VIRGINIA LEGISLATIVE ACTION

The West Virginia Commissioners on Uniform State Laws met in July and, after some discussion, decided to present to the Joint Legislative Commission on Interstate Cooperation the following Uniform Acts for consideration for introduction into the West Virginia Legislature at its 2016 session.

(1) Uniform Real Property Electronic Recording Act (2004)

The Uniform Real Property Electronic Recording Act equates electronic documents and signatures to original paper documents and manual signatures so that electronic documents pertaining to real estate transactions may be electronically recorded. The Act also establishes a state board to establish standards for electronic recording.

URPERA has been enacted in 30 states including Alabama, Arizona, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Kansas, Michigan, Minnesota, Mississippi, Nevada, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, U.S. Virgin Islands, Utah, Virginia, Washington, and Wisconsin.

(2) Uniform Act on Prevention of and Remedies for Human Trafficking (2013)

Human trafficking – a form of modern day slavery – is a global concern that affects the United States on all levels: federal, state, and local. Human trafficking has become the second fastest growing criminal activity in the United States, behind only drug trafficking. While every state has laws regarding human trafficking, these laws vary greatly in both substance and scope. Comprehensive and uniform criminal laws are needed to stop human trafficking both on the supply side and the demand side. But criminal penalties alone are not a sufficient response to the harms of human trafficking. Without support, victims are less likely to be willing to assist police and prosecutors. Without housing, counseling, and other help, victims may be forced back to the traffickers. Without awareness and planning, the public, state agencies, and other organizations cannot effectively coordinate efforts to stop trafficking.

The new Uniform Act on the Prevention of and Remedies for Human Trafficking provides the three components necessary for ending human trafficking: (1) comprehensive criminal provisions which focus on criminalizing specific conduct and which sets out penalties for that conduct; (2) provisions for victim services which create protections for victims of human trafficking; and (3) the promotion of coordinated state activities to educate the public and develop a system of victim services.

UAPRHT 2013 has been enacted in seven states including Delaware, Louisiana, and New Hampshire.

(3) Uniform Partition of Heirs Property Act (2010)

The Uniform Partition of Heirs Property Act (UPHPA) establishes a hierarchy of remedies for use in those partition actions involving heirs property. The remedies are designed to help those who own heirs property to maintain ownership of their property when possible or to insure at the very least that any court-ordered sale of the property is conducted under commercially reasonable circumstances that will protect the owners from losing substantial wealth upon the sale of their property. Courts use the act's guideline to determine if tenancy in common property is heirs property that must be partitioned in accordance with the act. UPHPA provides the procedures by which notice is provided to cotenants and appraisers and brokers are hired. The act also mandates that any commissioners, referees, or partitioners that are appointed by the court must be disinterested. Importantly, UPHPA incorporates an option and statutory procedure for cotenants to buy-out the interests of those other cotenants seeking partition by sale. In those instances in which a buy-out doesn't resolve the action, the act retains the widespread current preference for a partition in kind but outlines specific criteria a court must consider in determining whether a partition by sale may be justified. The UPHPA provides a supplementary mechanism for existing state partition law to help preserve the character and integrity of family-owned property and to protect a family's property-based wealth while still allowing a fair partition action to proceed.

UPHPA has been enacted in six states including Alabama, Georgia, Montana, and Nevada.

(4) Uniform Fiduciary Access to Digital Assets Act Revised (2015)

The **Revised Uniform Fiduciary Access to Digital Assets Act** clarifies the application of federal privacy laws and gives legal effect to an account holder's instructions for the disposition of digital assets. While the 2014 UFADAA provided fiduciaries with default access to all digital information, the revised act protects the contents of electronic communications from disclosure without the user's consent. Fiduciaries can still access other digital assets unless prohibited by the user.

UFADAA has been enacted in one state, Delaware.

(5) Uniform Voidable Transactions Act (2014)

The Uniform Voidable Transactions Act (UVTA), formerly the Uniform Fraudulent Transfer Act, strengthens creditor protections by providing remedies for certain transactions by a debtor that are unfair to the debtor's creditors. For example, the UVTA provides a remedy to a creditor whose debtor transfers property to a relative or third party to keep the property away from the creditor's reach.

The 2014 amendments to the UVTA update the existing Uniform Fraudulent Transfer Act, originally promulgated in 1984, with a number of key changes, including a new Section 10, which sets forth a choice of law rule for claims of the nature governed by the Act, as well as the addition of uniform rules allocating the burden of proof and defining the standard of proof with respect to claims and defenses under the Act.

The Uniform Voidable Transactions Act (formerly the Uniform Fraudulent Transfers Act) has been enacted in 45 states, including West Virginia. The 2014 Amendments to UVTA have been enacted in eight states.

(6) Uniform Deployed Parents Custody and Visitation Act (2012)

The increased deployment of service members has raised difficult child custody issues that profoundly affect both children's welfare and service members' ability to serve their country efficiently. The Uniform Deployed Parents Custody and Visitation Act (UDPCVA) standardizes and simplifies the rules covering custody and visitation issues for deployed parents. The goal of the UDPCVA is to facilitate expeditious and fair disposition of cases involving the custody rights of a member of the military. One of the key points of the new Act provides that the mere absence of a military parent from a state will not be used to deprive that state of custody jurisdiction. For most cases, a move is a purely voluntarily thing. For service members, however, a move is not voluntary but is made under a military order. Such an involuntary move should not lead to the loss of jurisdiction by a state most familiar and involved with the child's best interests. The UDPCVA ultimately promotes a just balance of interests – protecting the rights of the service member, the other parent, and, above all, the best interests of the children involved.

UDPCVA has been enacted in ten states including Colorado, Nevada, North Carolina, North Dakota, South Dakota, and Tennessee.

(7) **Revised Uniform Athlete Agents Act**

The Uniform Athlete Agents Act (UAAA) was adopted in 2000, and has been enacted in 42 states. In recent years, however, there have been substantial changes in the marketplace for athletic agents, and a number of states have recently considered non-uniform amendments to the act, particularly in response to allegations in the past two years of improper conduct by agents with regard to college athletes. The Revised Uniform Athlete Agents Act makes numerous changes to the act, including expanding the definition of “athlete agent” and “student athlete;” providing for reciprocal registration between states; adding new requirements to the signing of an agency contract; and expanding notification requirements.

The Revised Act is new and has not been enacted in any state.

(8) **Insurable Interests Amendment to the Uniform Trust Code**

The Insurable Interests Amendment to the Uniform Trust Code has been drafted to address concerns regarding the purchase of life insurance trusts by trustees as it relates to insurable interest law. Life insurance trusts are a standard estate planning tool because proceeds of an irrevocable life insurance trust are not subject to estate taxes.

The Amendment has been adopted in seven states.

VIII. DISTRIBUTION OF REPORT

As recommended in the Performance Review Report pertaining to the Commission on Uniform State Laws, a copy of this report to the Legislature is being forwarded to the West Virginia State Bar, the West Virginia Bar Association, the Mountain State Bar Association, the West Virginia Trial Lawyers Association, and the Defense Trial Counsel of West Virginia.

Respectfully submitted this 30th day of June, 2017

Frederick P. Stamp, Jr., Chairman and Secretary
Vincent Cardi, Legislative Liaison

for the Commissioners