

STATE OF HAWAII
Department of the Attorney General



**2015 REPORT
OF THE
COMMISSION TO PROMOTE
UNIFORM LEGISLATION**

**SUBMITTED TO
THE TWENTY-EIGHTH STATE LEGISLATURE
Regular Session of 2016**

TABLE OF CONTENTS

	<u>Page</u>
I. HISTORY OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS (NOW REFERRED TO AS THE UNIFORM LAW COMMISSION)	1
II. OPERATION OF THE ULC	2
A. Financial Support of the ULC	2
B. Creation of Uniform and Model Acts	5
C. Administration of the ULC	7
III. ACTIVITIES OF THE HAWAII COMMISSIONERS	8
A. Membership of the Hawaii Commission to Promote Uniform Legislation	8
B. ULC Committee Assignments	10
C. Meetings Attended	14
D. Legislative Appearances by the Hawaii Commissioners	15
IV. UNIFORM ACTS ENACTED IN HAWAII	17
A. Uniform Acts Introduced for Enactment in 2015	17
B. Table of Uniform Acts Enacted in Hawaii	18
V. A SUMMARY OF NEW UNIFORM ACTS	18
A. Revised Uniform Athlete Agents Act.	18
B. Uniform Commercial Real Estate Receivership Act.	19
C. Revised Uniform Fiduciary Access to Digital Assets Act (2015).	19

	<u>Page</u>
D. Uniform Home Foreclosure Procedures Act.	19
E. Uniform Recognition and Enforcement of Canadian Domestic- Violence Protection Orders Act.	20
F. Revised Uniform Residential Landlord and Tenant Act.	20
G. Uniform Trust Decanting Act.	21
VI. RECOMMENDATIONS FOR ENACTMENT IN 2016	21
VII. CONCLUSION	21
APPENDIX 1. Table of Uniform Acts Enacted in Hawaii	

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL

2015 REPORT OF THE
COMMISSION TO PROMOTE UNIFORM LEGISLATION

TO THE HONORABLE MEMBERS OF THE TWENTY-EIGHTH
LEGISLATURE:

The Hawaii Commission to Promote Uniform Legislation, the members of which are Hawaii's representatives to the National Conference of Commissioners on Uniform State Laws, respectfully submits this 2015 Report.

I. HISTORY OF THE NATIONAL CONFERENCE OF
COMMISSIONERS ON UNIFORM STATE LAWS (NOW
REFERRED TO AS THE UNIFORM LAW COMMISSION)

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 especially 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 passed 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. In August 1892, the first National Conference of Commissioners on Uniform State Laws (now commonly referred to as the "Uniform Law Commission" or

"ULC") convened in Saratoga, New York, three days preceding the annual meeting of the American Bar Association. By 1912, every state was participating in the ULC. As it has developed, the ULC is 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.

II. OPERATION OF THE ULC

A. Financial Support of the ULC.

The ULC, as a state service organization, depends upon state appropriations for its continued operation. All states, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands are asked to contribute a specific amount, based on population, for the maintenance of the ULC. In addition, each state commission requests an amount to cover its travel to the ULC annual meeting.

The ULC is a unique institution created to consider state law and to determine in which areas of the law uniformity is important. The work of the ULC has been a valuable addition over time to the improvement of state law in a great many subject areas. Included in that work have been acts such as the Uniform Commercial Code, the Uniform Partnership Act, the Uniform Limited Partnership Act, the Uniform Interstate Family Support Act, the Uniform Controlled Substances Act, the Uniform Anatomical Gift Act, the Uniform Unclaimed Property Act, the Uniform Probate Code, and the Model State Administrative Procedure Act, acts that have been adopted uniformly by nearly all the states or that have been heavily utilized by most state legislatures. Even with acts that have not been uniformly adopted, the texts consistently contribute to the improvement of the law and have served as valuable references for the legislatures in their effort to improve the quality of

state law.

The procedures of the ULC ensure meticulous consideration of each uniform or model act. The ULC spends a minimum of two years on each draft. Sometimes, the drafting work extends much longer. The drafting work for such large-scale acts as the Uniform Commercial Code, the Uniform Probate Code, and the Uniform Land Transactions Act took nearly a decade to complete. No single state has the resources necessary to duplicate this meticulous, careful non-partisan effort. Working together with pooled resources through the ULC, the states can produce and have produced the impressive body of state laws called the Uniform State Laws. Without the ULC, nothing like the existing body of uniform state laws would ever be available to the states.

The ULC also permits the states to tap the skills and resources of the legal profession for very little cost. No Uniform Law Commissioner is paid for his or her services. He or she receives only reimbursement for actual expenses incurred. The ULC estimates that each commissioner devotes approximately 150 hours a year to ULC work, including work on various drafting committees and attendance at the annual meeting. These are hours mainly spent in research and drafting work -- solid, substantive hours. The cumulative value of this donated time in the development of uniform and model acts represents literally thousands of hours of legal expertise. The total requested contribution of all the states to the operation of the ULC is \$2,716,100 in fiscal year 2015-2016. The smallest state contribution is \$18,200, and the largest is \$159,000. Hawaii's contribution for fiscal year 2015-2016 is \$33,900, which represents an extraordinarily good, cost-effective investment for the citizens of Hawaii. Even a modest use of the work product of the ULC guarantees any state a substantial return on each dollar invested. The State of Hawaii has had one hundred thirty-six enactments of uniform acts, amendments to uniform acts, and revised

uniform acts. For every dollar invested by each state, it has received very substantial and valuable services.

The annual budget of the ULC comes to \$3,976,000 for the current fiscal year (July 1, 2015 to June 30, 2016). Of this amount, \$1,100,000 (approximately 2.8%) goes directly to drafting uniform and model acts, and includes travel expenses for drafting committee meetings, printing and publication costs, and editing and personnel costs. The research process, which includes the work of study committees and the ULC Committee on Scope and Program, is \$328,000 (or 8%). About \$627,000 (16%) is spent in assisting state legislatures with bills based on uniform and model acts and this amount includes salaries and travel expenses. About \$439,000 (11%) is spent on the annual meeting. Public education for uniform and model acts costs about \$254,000 (6%) and includes contractual services, materials costs, and travel expenses. The remainder of the budget pays general administrative costs, governance costs, and occupancy expenses.

The ULC also receives limited funds from the American Bar Association and the American Law Institute. Grants from foundations and the federal government are occasionally sought for specific educational and drafting efforts. All money received from any source is accepted with the understanding that the ULC's drafting work is completely autonomous. No source may dictate the contents of any act because of a financial contribution. By seeking grants for specific projects, the ULC expands the value of every state dollar invested in its work.

The Uniform Commercial Code (UCC) is a joint venture between the ULC and the American Law Institute (ALI). The ALI holds the Falk Foundation funds that are allocated to work on the UCC. The original Falk Foundation grant came in the late 1940s for the original development of the UCC. Proceeds from copyright licensing of UCC materials provide revenue

to replenish the Falk Foundation corpus. At any time work on the UCC commences, a percentage of ULC and ALI costs is paid from Falk Foundation income.

In addition, the ULC has also established royalty agreements with major legal publishers that reprint the ULC's uniform and model acts in their publications.

The ULC works efficiently for all the states because individual lawyers are willing to donate time to the uniform law movement, and because it is a genuine cooperative effort of all the states. The ULC seemed like a very good idea to its founders in 1892. They saw nearly insoluble problems resulting from the rapid growth of the United States against confusing patterns of inadequate state law. They were deeply concerned about the evils of centralized government, fearing the unchecked growth of the federal government.

The ULC continues to be a very good idea. The states have chosen to maintain the ULC because it has been useful to their citizens and because it strengthens the states in the federal system of government. Different law in different states continues to be a problem. Either the states solve the problem, or the issues are removed to Congress. Without a state-sponsored, national institution like the ULC, more and more legislative activity would shift from the state capitols to Capitol Hill in Washington, D.C.

B. Creation of Uniform and Model Acts.

The procedures for preparing an act are the result of long experience with the creation of legislation. The ULC maintains a standing committee called the Scope and Program Committee that considers new subject areas of state law for potential uniform or model acts. That committee studies suggestions from many sources, including the organized bar, state

government, and private persons. If a subject area cannot be adequately studied by the Scope and Program Committee, it is likely to be given to a special study committee. Study committees report back to the Scope and Program Committee. Recommendations from the Scope and Program Committee go to the ULC Executive Committee.

Once a subject receives approval for drafting, a drafting committee is selected, and a budget is established for the committee work. A reporter is usually engaged, although a few committees work without professional assistance.

Advisors and participating observers are solicited to assist every drafting committee. The American Bar Association appoints official advisors for every committee. Participating observers may come from state government, from organizations with interests and expertise in a subject, and from the ranks of recognized experts in a subject. Advisors and participating observers are invited to work with drafting committees and to contribute comments. They do not make decisions with respect to the final contents of an act. Only the ULC members who compose the drafting committee may do this.

A committee meets according to the needs of the project. A meeting ordinarily begins on Friday morning and finishes by Sunday noon, so as to conflict the least with ordinary working hours. A short act may require one or two committee meetings. Major acts may require a meeting per month for a considerable period of time -- several years, in some instances. A given committee may produce a number of successive drafts, as an act evolves.

At each annual meeting during its working life, each drafting committee must present its work to the whole body of the ULC. The most current draft is read and debated. The entire text of each working draft is actually read aloud -- a reading of a proposed uniform law is not by title only,

but is considered section by section either by section title or word for word -- and debated during proceedings of the committee of the whole. This scrutiny continues from annual meeting to annual meeting until a final draft satisfies the whole body of the commissioners. Except in extraordinary circumstances, no act is promulgated without at least two years' consideration, meaning every act receives at least one interim reading at an annual meeting and a final reading at a subsequent annual meeting. As noted previously, there is often more than one interim reading and a drafting process that exceeds two years in duration. A draft becomes an official act by a majority vote of the states (one vote to each state). The vote by states completes the drafting work, and the act is ready for consideration by the state legislatures.

The cost of this process to the states is in travel expenses, paper and publication costs, and meeting costs. Nearly all the services are donated, thereby eliminating the single greatest cost factor. For the states, with their necessary cost consciousness, the system has extraordinary value.

C. Administration of the ULC.

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. As mentioned above, the Committee on Scope and Program considers all new subject areas for possible uniform acts. The Legislative Committee superintends the relationships of the ULC to the state legislatures.

A small staff located in Chicago operates the national office of the ULC. The national office provides support for drafting and legislative efforts and handles meeting arrangements, publications, legislative liaison, and general administration for the ULC.

The ULC has consciously limited its staff to prevent accrual of needless administrative costs. The full-time staff numbers only thirteen people. The small staff provides support for drafting and legislative efforts. In addition, the ULC contracts for professional services to aid in the drafting effort. These professional reporters, so-called, are engaged at very modest honoraria to work with drafting committees on specific acts. Most often they are law professors with specific expertise in the area of law addressed in the act they draft. The ULC also contracts with professional, independent contractors for part of its public information and educational materials.

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 on-going basis. Liaison and activities may be conducted with other associations as interests and activities necessitate.

III. ACTIVITIES OF THE HAWAII COMMISSIONERS

A. Membership of the Hawaii Commission to Promote Uniform Legislation.

The Hawaii Commission to Promote Uniform Legislation was originally created by law in 1911. The Commission is placed within the State Department of the Attorney General and, pursuant to section 26-7, Hawaii Revised Statutes, is advisory to the Attorney General and to the Legislature on matters relating to the promotion of uniform legislation. Pursuant to sections 3-1 and 26-7, Hawaii Revised Statutes, the Commission consists of five members, who are appointed by the Governor, with the advice and consent of the Senate, for staggered terms of four years and until their successors are appointed and qualified. The ULC Constitution requires that

each commissioner be a lawyer. A deputy attorney general, assigned by the Attorney General to coordinate the review and preparation of legislative bills, sits with the Commission to provide technical assistance, as necessary, and is recognized as an associate member of Hawaii's delegation to the ULC.

Hawaii's participation, both in terms of appointing uniform law commissioners and contributing funds, is essential. Hawaii benefits from the excellent body of law created for its consideration. The ULC, and all the states, benefit from having Hawaii's direct contribution to the work of the ULC. Hawaii's ideas and experience influence the whole, and the uniform law process is not complete without them. Value contributed returns value, and everybody in every state benefits.

The members of the Hawaii Commission during 2014-2015 were as follows:

- (1) Lani Liu Ewart;
- (2) Peter Hamasaki;
- (3) Elizabeth Kent;
- (4) Kevin Sumida; and
- (5) Ken H. Takayama

The members of the Hawaii Commission for 2015-2016 will remain the same.

Former commissioners Hiroshi Sakai and Robert S. Toyofuku continued to actively participate in ULC activities as ULC Life Members. Upon recommendation of the ULC Executive Committee and by the affirmative vote of two-thirds of the commissioners present at an annual meeting, they were elected as ULC Life Members with the privilege to participate in ULC activities. Deputy Attorney General Maurice S. Kato of the Legislative Division has been assigned by the Attorney General to provide staff support for the commissioners and is recognized as an

Associate Member of the ULC.

B. ULC Committee Assignments.

The ULC President appoints committees to investigate, study, and, if desirable, draft and review proposed uniform and model acts on subjects designated by the Executive Committee. Committee appointments are selectively made -- not all members of the ULC have the privilege of serving on a committee. The commissioners are assigned committees and contribute to the work relating to various uniform act committees as follows:

LANI LIU EWART

For 2014-2015, Commissioner Ewart served as a member of the Standby Committee on Uniform Partition of Heirs Property Act and on the Joint Study Committee on Harmonization of the Law of Canada, Caribbean Nations, and the United States Concerning Registration of Foreign Judgments.

For 2015-2016, Commissioner Ewart will continue to serve on the Standby Committee on Uniform Partition of Heirs Property Act and on the Joint Study Committee on Harmonization of the Law of Canada, Caribbean Nations, and the United States Concerning Registration of Foreign Judgments.

In 2014-2015, Commissioner Ewart was a Liaison Member to the Uniform Law Foundation Trustees, and will continue to be a member in 2015-2016.

Commissioner Ewart responded to questions by phone and email relating to various uniform acts, including the Uniform Voidable Transactions Act, amendments to Article 9 of the Uniform Commercial Code and the Uniform Real Property Electronic Recording Act. She also met with a group

of Hawaii estate and trust attorneys regarding the Uniform Trust Code, and worked on an article relating to activities of the Uniform Law Commission and the Commission to Promote Uniform Legislation to be published in the Hawaii Bar Journal.

PETER J. HAMASAKI

For 2014-2015, Commissioner Hamasaki served on the Standby Committee to Revise the Uniform Law on Notarial Acts.

For 2015-2016, Commissioner Hamasaki will continue to serve on the Standby Committee to Revise the Uniform Law on Notarial Acts.

In May, 2015, Commissioner Hamasaki participated in a telephone conference for the Standby Committee to Revise the Uniform Law on Notarial Acts to consider amendments to the Revised Uniform Law on Notarial Acts.

ELIZABETH KENT

For 2014-2015, Commissioner Kent served as a member of the Standby Committee on a Uniform Collaborative Law Act, the Drafting Committee on Uniform Family Law Arbitration Act, the Study Committee on Model Veterans Court Act, the Drafting Committee on Model Veterans Court Act, the Study Committee on Firearms Information, the Joint Study Committee on Harmonization of the Law of Canada, Caribbean Nations, and the United States Concerning Registration of Foreign Judgments, and the Drafting Committee on Home Foreclosure Procedures Act.

For 2015-2016, Commissioner Kent will continue to serve as a member of the Standby Committee on a Uniform Collaborative Law Act, the Drafting Committee on Uniform Family Law Arbitration Act, the Drafting Committee on Model Veterans Court Act, and the Standby Committee on

Home Foreclosure Procedures Act. She will also serve as a member of the Committee to Monitor Developments in Civil Litigation and Dispute Resolution.

Commissioner Kent attended numerous drafting committee meetings, did research, and spent time on correspondence and miscellaneous phone calls with people interested in various acts. She also drafted correspondence and articles for the Hawaii State Bar Association Journal, and generally assisted with promoting uniform state laws.

KEVIN P. H. SUMIDA

In 2014-2015, Commissioner Sumida served as a member of the Standby Committee on Harmonization of Business Entity Acts and the Drafting Committee to Revise the Uniform Residential Landlord and Tenant Act.

For 2015-2016, Commissioner Sumida will continue to serve as a member of the Standby Committee on Harmonization of Business Entity Acts and the Standby Committee on the Revised Uniform Residential Landlord and Tenant Act (2015).

He attended two meetings of the Drafting Committee to Revise the Uniform Residential Landlord and Tenant Act on February 19-20, 2015, in Washington, D.C, and on April 17-19, 2015, in Chicago, Illinois.

KEN H. TAKAYAMA

For 2014-2015, Commissioner Takayama served as a member of the Standby Committee on Uniform Deployed Parents Custody and Visitation Act. In addition, he served as Hawaii's liaison member of the Legislative Committee and as a member of the Committee of Legislative Attorneys and on the Committee on Membership and Attendance.

For 2015-2016, Commissioner Takayama will serve on the Study Committee on Regulation of Drones. He will also continue to serve as Hawaii's liaison member of the Legislative Committee and as a member of the Committee of Legislative Attorneys and the Committee on Membership and Attendance.

Commissioner Takayama participated in a one-hour conference call on October 13, 2015, for the Study Committee on Regulation of Drones.

He had a conference call meeting with a legislator about possible introduction and discussions and communications with the national Uniform Law Commission Office in Chicago regarding the Uniform Collateral Consequences of Conviction Act. He also had an inquiry and communications with a member of the public regarding the Uniform Real Property Electronic Recording Act.

HIROSHI SAKAI

For 2014-2015, Life Member Hiroshi Sakai served on the Committee on International Legal Developments, the Standby Committee on Uniform Debt Management Services Act, and the Standby Committee on Manufactured Housing Act. After having served forty-six years with the ULC, Life Member Sakai passed away on October 9, 2015.

ROBERT S. TOYOFUKU

For 2014-2015, Life Member Robert S. Toyofuku served as a member of the Legislative Council and will continue to serve as such during 2015-2016. He is the Legislative Committee council member who oversees the legislative activities in the states in the Western Region (Alaska, California, Hawaii, Nevada, Oregon, and Washington).

The Legislative Committee was created as a standing committee to encourage the development of legislative programs in each state to accomplish the introduction and passage of bills to enact uniform and model acts of the ULC. The activities of the Legislative Committee are directed by the Chair and the Legislative Council. Each state and the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands are represented by a commissioner designated as the liaison member for that jurisdiction who is responsible for the legislative program in that commissioner's home jurisdiction. The represented jurisdictions are grouped into ten regions. A member of the Legislative Council is assigned to each region, with the responsibility to oversee the legislative activities in the states in the assigned region. As a member of the Council, Life Member Toyofuku is responsible to work with the liaisons from six states: Alaska, California, Hawaii, Nevada, Oregon, and Washington, and monitor progress on any legislation regarding ULC acts.

In 2015, Life Member Toyofuku, as a member of the Legislative Council, participated in monthly conference calls (about 30-45 minutes) with members of the Council from January through April and participated in longer conference calls in June and September. He also attended a Legislative Council meeting during the 2015 ULC annual meeting in Williamsburg, Virginia.

He has also had various correspondence by e-mail with the national ULC office and the Hawaii Commissioners.

C. Meetings Attended.

The commissioners attended the meetings of their respective ULC committees (as listed in the previous section), which are scheduled by the committee chairs as needed and which are usually held on the mainland. In

addition, the ULC met in its 124th year in Williamsburg, Virginia, from July 10-16, 2015.

Commissioners Ewart, Hamasaki, Kent, Sumida, and Takayama and former Hawaii Commission member and ULC Life Member Toyofuku attended the 2015 annual meeting. Life Member Sakai and Mr. Kato did not attend the meeting.

During the sessions of the annual meeting of the ULC, the commissioners who are members of committees meet separately with their committees and, if scheduled, appear with their committees on the dais in the main meeting room during the reading of draft uniform acts.

After consideration of the latest drafts, the ULC approved seven new uniform acts or amendments to existing acts: the Revised Uniform Athlete Agents Act, the Uniform Recognition and Enforcement of Canadian Protection Orders on Domestic Violence Act, the Uniform Trust Decanting Act, the Revised Uniform Residential Landlord and Tenant Act, the Uniform Home Foreclosure Procedures Act, the Uniform Commercial Real Estate Receivership Act, and the Revised Uniform Fiduciary Access to Digital Assets Act.

Further information on the ULC and copies of the approved final drafts of the uniform acts can be found at its website, <http://uniformlaws.org/>.

D. Legislative Appearances by the Hawaii Commissioners.

Commissioner Takayama served in 2014-2015 as the Commission's liaison to the Hawaii State Legislature. The Commission to Promote Uniform Legislation is advisory to the State Legislature, as well as to the Attorney General, and stands ready to assist the Legislature in providing information on any uniform act that the Legislature may be considering for

enactment. Consequently, the Hawaii commissioners, upon notification by Commissioner Takayama of scheduled public hearings and as assigned by Commissioner Ewart, have testified before the committees of the Legislature when public hearings have been held on bills to enact uniform laws.

During the regular session of 2015, Commissioner Takayama and Life Member Toyofuku arranged for the introduction of and/or monitored the movement of bills with regard to the Uniform Interstate Family Support Act, the Uniform Fiduciary Access to Digital Assets Act, and the Uniform Partition of Heirs Property Act. They spent time at the Legislature meeting with various legislators regarding ULC related bills. They, together with the other commissioners, also prepared testimony and testified before various Senate and House committees.

Commissioner Ewart, in connection with the Uniform Partition of Heirs Property Act, (i) prepared testimony for hearings before the House Committee on Consumer Protection and Commerce on January 29, 2015, and March 16, 2015, and before the House Judiciary Committee on February 20, 2015; (ii) had several telephone calls and email with Hawaii attorneys who practice in the partition area; and (iii) had phone calls and email with the Chicago office of ULC and other parties interested in the Act.

During the 2015 regular session, Commissioner Ewart also reviewed and commented on testimony regarding the Uniform Fiduciary Access to Digital Assets Act and the Uniform Interstate Family Support Act and coordinated assignments of commissioners for other Uniform Acts before the Legislature. She also submitted testimony in support of the confirmation of Ken Takayama for another term as commissioner.

Commissioner Sumida spent numerous hours tracking and reviewing material on various bills enacting or revising certain uniform acts.

Commissioner Kent spent time reviewing material and testimony on the various acts introduced.

Commissioner Takayama reviewed, researched, drafted testimony, and testified on bills relating to the Uniform Interstate Family Support Act and the Uniform Fiduciary Access to Digital Assets. He also spent time in meetings and telephone calls regarding his reappointment to the Commission to Promote Uniform Legislation.

Commissioner Hamasaki prepared drafts and monitored S.B. No. 467 and H.B. No. 1215, both relating to the Uniform Fiduciary Access to Digital Assets Act. He also prepared, reviewed, submitted testimony and testified on the bill.

IV. UNIFORM ACTS ENACTED IN HAWAII

The State of Hawaii has supported the ULC not only by sending a delegation of commissioners to the ULC but also by enacting the uniform acts adopted by the ULC. However, as with other statutes, the process of review and amendment of uniform acts is an ongoing, never-ending process that responds to changing circumstances and needs of our society.

A. Uniform Acts Introduced for Enactment in 2015.

During the regular session of 2015, bills were introduced to enact or amend the following uniform acts: (1) the Uniform Partition of Heirs Property Act; (2) the Uniform Fiduciary Access to Digital Assets Act; and (3) the Uniform Interstate Family Support Act. Of these, the bill to amend the Uniform Interstate Family Support Act was passed by the Legislature and approved by the Governor as Act 77 on July 1, 2015.

B. Table of Uniform Acts Enacted in Hawaii.

Attached as Appendix 1 to this report is a table listing the seventy-seven original, amended, or revised uniform acts enacted in Hawaii, either as a whole, in a substantially similar version, or in a modified version. The table also lists the references to the Hawaii Revised Statutes where the uniform acts or their similar or modified versions may be found. Some of the listed uniform acts, such as the Uniform Criminal Extradition Act, have been superseded by other uniform acts adopted by the ULC after enactment in Hawaii. A review of the superseding uniform acts should be done on an ongoing basis for the eventual updating of the Hawaii Revised Statutes by enactment of the superseding uniform acts.

V. A SUMMARY OF NEW UNIFORM ACTS

During the 2015 annual meeting, the ULC considered and adopted seven new uniform acts or amendments to existing acts. These acts are briefly described below, based on summaries prepared by the ULC.

A. Revised Uniform Athlete Agents Act.

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.

B. Uniform Commercial Real Estate Receivership Act.

Receivership is an equitable remedy allowing a court to oversee the orderly management and disposition of property subject to a lawsuit. Although the remedy is not new, there is no standard set of receivership rules and the courts of different states have applied widely varying standards. This Uniform Commercial Real Estate Receivership Act applies to receiverships involving commercial real estate, and provides a standard set of rules for courts to apply. It will result in greater predictability for litigants, lenders, and other parties doing business with a company subject to receivership.

C. Revised Uniform Fiduciary Access to Digital Assets Act (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.

D. Uniform Home Foreclosure Procedures Act.

The recent wave of residential foreclosure actions revealed flaws in the foreclosure system, particularly in states where court systems were overwhelmed. The Uniform Home Foreclosure Procedures Act provides a balanced set of rules and procedures to standardize and streamline the

foreclosure process. The act protects homeowners by requiring adequate notice and documentation before a foreclosure action can proceed. The act protects lenders by precluding contrary municipal ordinances and expediting foreclosure of abandoned properties. Finally, the act includes rules for pre-foreclosure resolutions and negotiated transfers to encourage non-judicial solutions.

E. Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act.

The Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act provides for the enforcement of domestic violence protection orders issued by Canadian courts. Reflecting the friendship between the United States and Canada, citizens move freely between the two countries, freedom that in certain limited circumstances can work against victims of domestic violence. Canada has granted recognition to protection orders of the United States and other countries in the Uniform Enforcement of Canadian Judgments and Decrees Act. By this act, enacting states accord similar recognition to protection orders from Canada.

F. Revised Uniform Residential Landlord and Tenant Act.

The Revised Uniform Residential Landlord and Tenant Act is an updated version of the Uniform Residential Landlord and Tenant Act, which was first promulgated in 1972 and last amended in 1974. The purpose of the original Act was to eliminate all elements of outmoded common law from the landlord-tenant relationship and base all phases of the rental agreement on contract law. The Revised Act includes new articles covering the disposition of tenant property, lease termination in case of domestic violence or sexual assault, and security deposits. The Revised Act also includes an appendix for states that only want to enact the updated provisions.

G. Uniform Trust Decanting Act.

“Decanting” is the term used to describe the distribution of assets from one trust into a second trust, like wine is decanted from the bottle to another vessel. Decanting can be a useful strategy for changing the outdated terms of an otherwise irrevocable trust, but can also be abused to defeat the settlor’s intent. The Uniform Trust Decanting Act allows a trustee to reform an irrevocable trust document within reasonable limits that ensure the trust will achieve the settlor’s original intent. The act prevents decanting when it would defeat a charitable or tax-related purpose of the settlor.

VI. RECOMMENDATIONS FOR ENACTMENT IN 2016

The Hawaii Commission to Promote Uniform Legislation annually selects uniform acts that have not yet been enacted in Hawaii and recommends the enactment of those selected uniform acts. However, the Commission's selection is based in part on practical and logistical considerations and the number of uniform acts recommended for enactment in any legislative session is not intended to imply that other uniform acts should not be considered. The Commission stands ready to provide information and support on any uniform act that the Legislature may have before it for consideration.

For the regular session of 2016, the Commission supports enactment of the Revised Uniform Fiduciary Access to Digital Assets Act (2015).

The Revised Uniform Fiduciary Access to Digital Assets Act (2015) is summarized on page 19 in Section V of this report.

VII. CONCLUSION

The Hawaii Commission to Promote Uniform Legislation offers its assistance in obtaining information or advice regarding the uniform acts

recommended for consideration, or any other uniform act adopted by the ULC. The Commission wishes to express its appreciation for the interest in and support of the Commission's efforts to promote uniform legislation that have been received from the Governor, the Attorney General, and the Legislature.

Respectfully submitted,

COMMISSION TO PROMOTE UNIFORM
LEGISLATION

By: Lani L. Ewart
LANI L. EWART
Chairman

TABLE OF
UNIFORM ACTS ENACTED IN HAWAII

<u>ACT (Date of ULC Adoption or Amendment)</u>	<u>HAWAII REVISED STATUTES</u>
1. Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act	Chapter 551G
2. Uniform Anatomical Gift Act (1968)(1987)(2008)	Part I, Chapter 327
3. Uniform Arbitration Act (1956)(2000)	Chapter 658A
4. Uniform Athlete Agents Act (2000)	Chapter 481E
5. Uniform Attendance of Out of State Witnesses Act (1931)(1936)	Chapter 836
6. Uniform Child Custody Jurisdiction Act (1968)	Chapter 583 (Repealed 2002)
7. Uniform Child-Custody Jurisdiction and Enforcement Act (1997)	Chapter 583A
8. Uniform Collaborative Law Act	Chapter 658G
9. Uniform Commercial Code (1951)(1957) (1962)(1966) (and Revised Articles)	Chapter 490
10. Uniform Commercial Code Article 1 – General Provisions (2001)	Article 1, Chapter 490
11. Uniform Commercial Code Article 2A -- Leases (1987)(1990)	Article 2A, Chapter 490
12. Uniform Commercial Code Article 3 -- Negotiable Instruments (1990)(1991)	Article 3, Chapter 490
13. Uniform Commercial Code Article 4 -- Bank Deposits and Collections (1990)	Article 4, Chapter 490

<u>ACT (Date of ULC Adoption or Amendment)</u>	<u>HAWAII REVISED STATUTES</u>
14. Uniform Commercial Code Article 4A -- Funds Transfer (1989) (2013)	Article 4A, Chapter 490
15. Uniform Commercial Code Article 5 -- Letters of Credit (1995)	Article 5, Chapter 490
16. Uniform Commercial Code Article 6 -- Bulk Sales (1989)	Article 6, Chapter 490 (Repealed 1998)
17. Uniform Commercial Code Article 7 -- Documents of Title (2003)	Article 7, Chapter 490
18. Uniform Commercial Code Article 8 -- Investment Securities (1977)(1994)	Article 8, Chapter 490
19. Uniform Commercial Code Article 9 -- Secured Transactions (1972) (1999) (2010)	Article 9, Chapter 490
20. Uniform Common Trust Fund Act (1938)(1952)	Chapter 406
21. Uniform Controlled Substances Act (1970)(1973)	Chapter 329 (Substantially similar)
22. Uniform Criminal Extradition Act (Superseded 1980)	Chapter 832
23. Uniform Custodial Trust Act (1987)	Chapter 554B
24. Uniform Deceptive Trade Practices Act (1964)(1966)	Chapter 481A
25. Uniform Determination of Death Act (1978)(1980)	§ 327C-1 (Substantially similar definition)

<u>ACT (Date of ULC Adoption or Amendment)</u>	<u>HAWAII REVISED STATUTES</u>
26. Uniform Disclaimer of Property Interests Act (1999)	Chapter 526
27. Uniform Disposition of Community Property Rights at Death Act (1971)	Chapter 510
28. Uniform Division of Income for Tax Purposes Act (1957)	Part II, Chapter 235
29. Uniform Durable Power of Attorney Act (1979)(1987)	Chapter 551D
30. Uniform Electronic Legal Material Act	Chapter 98
31. Uniform Electronic Transactions Act (1999)	Chapter 489E
32. Uniform Enforcement of Foreign Judgments Act (1948)(1964)	Chapter 636C
33. Uniform Environmental Covenants Act	Chapter 508C
34. Uniform Rules of Evidence Act (1953)(1974)(1986)(1988)	Chapter 626
35. Uniform Fiduciaries Act (1922)	Chapter 556
36. Uniform Foreign-Country Money Judgments Recognition Act (2005)	Chapter 658F
37. Uniform Foreign-Money Claims (1989)	Chapter 658B
38. Uniform Foreign Money Judgments Recognition Act (1962)	Chapter 658C
39. Uniform Fraudulent Transfer Act (1984)	Chapter 651C
40. Uniform Guardianship and Protective Proceedings Act (1997)	Parts 1-4, Article V, Chapter 560

<u>ACT (Date of ULC Adoption or Amendment)</u>	<u>HAWAII REVISED STATUTES</u>
41. Uniform Health-Care Decisions Act (Modified)	Chapter 327E
42. Uniform Information Practices Code (1980)	Chapter 92F (Substantially similar)
43. Uniform Interstate Depositions and Discovery Act	Chapter 624D
44. Uniform Interstate Family Support Act (1992)(1996)(2015)	Chapter 576B
45. Uniform Jury Selection and Service Act (1970)(1971)	Part I, Chapter 612 (Substantially similar)
46. Uniform Limited Liability Company Act (1995) (1996)	Chapter 428
47. Uniform Limited Partnership Act (1976)(1983)(1985)	Chapter 425D (Repealed effective July 1, 2004)
48. Uniform Limited Partnership Act (2001)	Chapter 425E (Effective on July 1, 2004)
49. Uniform Management of Institutional Funds Act (1972)	Chapter 517D
50. Uniform Mediation Act (2013) (2014)	Chapter 658H
51. Uniform Military and Overseas Voters Act	Chapter 15D
52. Uniform Parentage Act (1973)	Chapter 584
53. Uniform Partnership Act (1914) (1997)	Part IV, Chapter 425
54. Uniform Photographic Copies as Evidence Act (1949)	§ 626-1, Rules 1001 to 1008

<u>ACT (Date of ULC Adoption or Amendment)</u>	<u>HAWAII REVISED STATUTES</u>
55. Uniform Power of Attorney Act (2014)	Chapter 551E
56. Uniform Premarital Agreement Act (1983)	Chapter 572D
57. Uniform Principal and Income Act (1997)(2000)	Chapter 557A
58. Uniform Probate Code (1969)(1975)(1982)(1987)(1989)(1990)(1991)(1998)	Chapter 560
58. Model Protection of Charitable Assets Act (2014)	Chapter 28
60. Uniform Prudent Investor Act (1994)	Chapter 554C
61. Uniform Prudent Management of Institutional Funds Act (2006)	Chapter 517E
62. Uniform Real Property Electronic Recording Act (2004) (2005)	Part XII, Chapter 502
63. Uniform Real Property Transfer on Death Act (2009)	Chapter 527
64. Uniform Reciprocal Enforcement of Support Act (1950)(1958)(1968)	Chapter 576 (Repealed 1997)
65. Model Registered Agents Act (2006)	Chapter 425R
66. Uniform Rendition of Accused Persons (Superseded 1980)	Chapter 833
67. Uniform Residential Landlord and Tenant Act (1972)	Chapter 521
68. Uniform Securities Act (1956)(1958) (Superseded 1985)	Chapter 485

ACT (Date of ULC Adoption
or Amendment)

HAWAII REVISED STATUTES

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| 69. | Uniform Status of Convicted Persons Act (1964) | Chapter 831 |
| 70. | Uniform Statutory Rule Against Perpetuities Act (1986)(1990) | Chapter 525 |
| 71. | Uniform Testamentary Additions to Trusts Act (1960)(1961)
(Uniform Probate Code § 2-511 (1991)) | § 560:2-511 |
| 72. | Uniform Trade Secrets Act (1979)(1985) | Chapter 482B |
| 73. | Uniform Transfer-on-Death (TOD) Security Registration Act (1998) | Chapter 539 |
| 74. | Uniform Transfers to Minors Act (1983)(1986) | Chapter 553A |
| 75. | Uniform Trustees' Powers Act (1964) | Chapter 554A |
| 76. | Uniform Unclaimed Property Act (1981) (1995) | Part I, Chapter 523A |
| 77. | Uniform Unincorporated Nonprofit Association Act (1992)(1996) | Chapter 429 |