



3. OLD BUSINESS.

- a. 2018 Annual Meeting of the National Conference of Commissioners on Uniform State Laws (NCCUSL) held in Louisville, Kentucky, from July 20-26, 2018.

Chairman Lani Ewart, Commissioners Peter Hamasaki, Kevin Sumida, and Ken Takayama, and NCCUSL Life Member Robert Toyofuku attended the 2018 annual meeting.

Chairman Ewart said that the meeting was excellent in terms of location and the business that was handled.

Life Member Toyofuku noted that the legislative breakfast was set up differently from years past in that, instead of the Western region together, the states were mixed so that there could be more interaction with different states. Commissioner Sumida and Chairman Ewart felt that it did not make much of a difference because there was so little time for interaction and because the main focus of the breakfast is your state – not looking for input from different states.

Commissioner Ewart felt it was good that the NCCUSL Legislative Council members went to every breakfast and were checking with different groups.

4. NEW BUSINESS.

- a. Targeted Uniform Acts for the 2019 Legislative Regular Session (comment, discussion, and possible decisions on which uniform acts the Commission may recommend for enactment).

Commissioner Takayama reported that 2019 has a new legislature so there are no carryover bills. He noted that the bills that did not pass in 2018 had strong opposition. The commissioners discussed possible acts that may be considered for introduction during the 2019 Legislative Regular Session. Commissioner Takayama mentioned that there are only a few targeted to complete acts that Hawaii has not yet passed, including the Uniform Trust Code and the revision of the Uniform Limited Liability Company Act.

Commissioner Takayama noted that as submitted during the annual meeting, the Hawaii commission plan for introductions included the Uniform Employee and

Student Online Protection Act, the Revised Uniform Athlete Agents Act, and the Uniform Regulation of Virtual-Currency Businesses Act.

UNIFORM CRIMINAL RECORDS ACCURACY ACT.

Commissioner Takayama said that he sent material on the Uniform Criminal Records Accuracy Act to various people who may have some interest such as the staff attorneys of potential Judiciary Chairs, the Judiciary, the Hawaii Criminal Justice Data Center of the Department of the Attorney General, and the American Civil Liberties Union (ACLU). Commissioner Kent confirmed that she received a response from the Judiciary that they were looking at the act. Commissioner Takayama felt that the act could still generate a fair amount of opposition in terms of work and potential expense so it will not be an easy act to pass.

Commissioner Kent suggested that a copy should also be sent to the Law Enforcement Coalition. Mr. Kato suggested sending it to Kevin Takata and Lance Goto of the Department of the Attorney General Criminal Justice Division, who usually participate in the Law Enforcement Coalition meetings.

UNIFORM NONPARENT CUSTODY AND VISITATION ACT (UNCVA).

Commissioner Takayama stated that he sent materials on the UNCVA to the staff attorneys of the two legislators who will probably become the Judiciary Chairs.

REVISED UNIFORM ATHLETE AGENTS ACT (2015).

The commissioners discussed whether or not the Revised Uniform Athlete Agents Act should be reintroduced in 2019. Life Member Toyofuku noted that changes are being made to the Revised Uniform Athlete Agents Act because of a basketball scandal. Life Member Toyofuku said he would talk to Speaker Scott Saiki to ask him to refer this act directly to CPC, the House Committee on Consumer Protection and Commerce, given the problems in the past where the chair of the House Intrastate Commerce Committee was not interested in taking up the measure. He also suggested that the Commission may want to have Idaho Commissioner Dale Higer, Chair of the Standby Committee of the Uniform Athlete Agents Act, talk to Representative Takashi Ohno, Chair of the House Committee on Intrastate Commerce about the act. Chairman Ewart asked Life Member Toyofuku to check with the Standby Committee on whether or not the Uniform Law Commission (ULC) will be making any amendments to the act and, if not, the Commission can introduce it in the 2019 regular legislative session.

UNIFORM REGULATION OF VIRTUAL-CURRENCY BUSINESSES ACT (URVCBA) and the UNIFORM SUPPLEMENTAL COMMERCIAL LAW FOR THE UNIFORM REGULATION OF VIRTUAL-CURRENCY BUSINESSES ACT.

Commissioner Takayama stated that the Department of Commerce and Consumer Affairs (DCCA) is still going to push to classify virtual currency businesses as money transmitters.

Commissioner Takayama stated that it is a hard sell because the agency that would be implementing or overseeing the act wants a different version. The DCCA has its own process that it wants to go through rather than virtual currency. Chairman Ewart noted that DCCA seems to want to handle it like a money transmitter act, which is what a lot of states are doing. Commissioner Kent stated that only three states introduced the act, but none enacted it.

Life Member Toyofuku added that during the Louisville meeting, he talked to Oklahoma commissioner Fred Miller, Chair of the Standby Committee of the Uniform Regulation of Virtual Currency Businesses Act, and Katie Robinson, ULC Legislative Program Director. Katie Robinson told him that a lot of states are using the money transmitter law rather than the Uniform Regulation of Virtual-Currency Business Act, so she was not surprised to hear that Hawaii was using the money transmitter law. Chairman Ewart noted that different state agencies do talk to each other.

Chairman Ewart noted one other difficulty is that a supplement got passed at the last ULC annual meeting. Since it has not been combined yet, it would need to be introduced separately or introduce and enact the original and then introduce the supplement in a subsequent session. She felt that the Commission should wait and see where DCCA decides to go and see what other states enact URVCBA so that the Commission can have better input and see how the URVCBA standby committee plans to deal with the supplement to the act as well as the original act. Commissioner Kent said that URVCBA establishes a regulatory framework for virtual currency businesses to operate either by license or registration while the supplemental act provides the commercial law rules using time tested duties and rights of customers of securities intermediaries under the Uniform Commercial Code (UCC). The supplement is bringing in the UCC. The original act seems like it is about regulations. Chairman Ewart thought that the supplement was written in response to more consumer protection or process under the UCC. The commissioners discussed that it made no sense to keep them separate and felt that the original act and the supplement should be melded together and be introduced as one bill.

Mr. Kato noted that the decision on whether or not to introduce URVCBA should be made early in order to allow the Legislative Division time to draft it, since it would require a melding of the original act and the supplement together.

UNIFORM EMPLOYEE AND STUDENT ONLINE PRIVACY PROTECTION ACT (UESOPPA).

Commissioner Takayama reported that the American Civil Liberties Union (ACLU) version of UESOPPA died at the end of the 2018 legislative session because of a concern from the national organization of the ACLU. Chairman Ewart reported that at one point during the last legislative session, one of the committees was considering looking back at the ULC version of the act. The commissioners discussed whether they should introduce the ULC version as a kind of defense measure, where if the ACLU introduced their version of the bill and the Commission has problems with it, the ULC version could be pointed to as an alternative, or with which to have a compromise version between the ACLU and the uniform act.

Commissioner Hamasaki said that it may be tough to get this act enacted because the House Labor Chair expressed a strong preference for the ACLU version. Chairman Ewart expressed that it may be worth introducing just in case ACLU does not come in with its own bill.

REVISED UNIFORM LAW ON NOTARIAL ACTS (RULONA).

Commissioner Hamasaki thought that it would be hard to enact RULONA because Hawaii's Department of the Attorney General handles the regulation of notaries public through rulemaking and not at the legislative level.

AMENDMENTS TO UCC ARTICLES 1, 3, 8, and 9.

Commissioner Hamasaki noted that introducing legislation on the amendments to UCC Articles 1, 3, 8, and 9 depended on the enactment of the federal National Mortgage Note Repository Act, which has not happened.

UNIFORM FIDUCIARY INCOME AND PRINCIPAL ACT.

Chairman Ewart asked whether amending the Uniform Fiduciary Income and Principal Act was something the Commission would like to consider. Commissioner Hamasaki offered that the latest version of the act includes

innovative flexible rules on unitrust conversion. Chairman Ewart offered to ask some people in her law firm who are members of the American College of Trust and Estate Counsel (ACTEC) whether there has been any kind of support or action for this act.

SUMMARY.

Commissioner Takayama moved, and Commissioner Kent seconded, that Chairman Ewart have standby authority to make a decision on whether or not to introduce the Uniform Regulation of Virtual-Currency Businesses Act if there is good reason to introduce it and have the Legislative Division draft the legislation. The motion carried unanimously.

Commissioner Takayama moved, and Commissioner Kent seconded that Chairman Ewart have standby authority to make a decision after receiving feedback from commissioners on whether or not to introduce the Uniform Criminal Records Accuracy Act and have the Legislative Division draft the legislation. The motion carried unanimously.

Commissioner Takayama moved, and Commissioner Kent seconded that Chairman Ewart have standby authority to make a decision after receiving feedback from certain people who were sent information materials on the act, on whether or not to introduce the Uniform Nonparent Custody and Visitation Act and ask the Legislative Division to draft the legislation. The motion carried unanimously.

Commissioner Takayama moved, and Commissioner Kent seconded that Chairman Ewart have standby authority to make a decision on introduction of the Uniform Fiduciary Income and Principal Act after receiving feedback from ACTEC members in her law firm about whether or not there is support among the estates and trusts bar nationally and locally to have it introduced. The motion carried unanimously.

Commissioner Takayama stated the Commission has a sponsor for the Uniform Employee and Student Online Privacy Protection Act and the Revised Uniform Athlete Agents Act (2015) drafted for introduction. The sponsor would introduce the bill and send it to the drafting agency to get it drafted.

In summary, the following acts will be introduced:

Uniform Employee and Student Online Privacy Protection Act  
Revised Uniform Athlete Agents Act (2015)

Chairman Ewart will make a decision with regard to introduction of acts based on further information received from other commissioners or interested parties on the following acts:

- Uniform Regulation of Virtual-Currency Businesses Act
- Uniform Criminal Records Accuracy Act
- Uniform Nonparent Custody and Visitation Act
- Uniform Fiduciary Income and Principal Act

b. Other New Business.

There was no other new business.

5. ADJOURNMENT.

There being no further business, Commissioner Sumida moved and Commissioner Kent seconded, that the meeting be adjourned. The motion carried unanimously and Chairman Ewart adjourned the meeting at 2:26 pm.

Respectfully submitted,



Lynda E. Tobita  
Legal Clerk  
Legislative Division

Approved for Submission:



Maurice S. Kato  
Deputy Attorney General

Approved by the Commission:

As Submitted

With Corrections

Date Approved: 6/25/2019