

**STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL**

COMMISSION TO PROMOTE UNIFORM LEGISLATION

**MINUTES OF MEETING
Held on June 25, 2018**

1. CALL TO ORDER.

Pursuant to written public notice filed in the Office of the Lieutenant Governor on May 31, 2018, at 8:56 a.m., the meeting of the Commission to Promote Uniform Legislation was called to order by Chairman Lani Ewart at 1:31 p.m. on Monday, June 25, 2018, in the Third Floor Conference Room of the Department of the Attorney General, Hale Auhau, 425 Queen Street, Honolulu, Hawaii.

Commissioners Present: Lani L. Ewart, Peter J. Hamasaki,
Kevin Sumida, and Ken H. Takayama

Commissioners Absent: Elizabeth Kent (participated unofficially
through telephone connection)

Also Present: Robert S. Toyofuku, Life Member of
the National Conference of Commissioners
on Uniform State Laws, Maurice S. Kato,
Deputy Attorney General, and Lynda Tobita,
Legal Clerk, of the Legislative Division of
the Department of the Attorney General

2. APPROVAL OF MINUTES OF MEETING OF OCTOBER 31, 2017.

Chairman Lani Ewart asked the commissioners to review the minutes of the meeting held on October 31, 2017.

Commissioner Hamasaki noted that a correction should be made to the last sentence of the third paragraph on page 3 to change the acronym "ACUL" to "ACLU".

Commissioner Sumida moved and Commissioner Hamasaki seconded the motion to approve the minutes of October 31, 2017, as corrected. The motion carried with all commissioners voting in favor of the motion.

3. OLD BUSINESS.

- a. Targeted Uniform Acts for the 2018 Legislative Regular Session (discussion on the status of bills to enact uniform acts).

Chairman Lani Ewart asked Commissioner Takayama for a summary of what happened during the 2018 legislative regular session. Commissioner Takayama stated that two bills that were still alive at the end of the 2017 legislative regular session and therefore carried over to 2018 were the Revised Uniform Athlete Agents Act (2015) and the Uniform Employee and Student Online Privacy Protection Act. Two other measures that were introduced during the 2018 legislative regular session were the Uniform Certificate of Title for Vessels Act (UCOTVA), which was introduced through the Department of Land and Natural Resources, and the Uniform Regulation of Virtual Currency Businesses Act (URVCBA).

REVISED UNIFORM ATHLETE AGENTS ACT (2015).

The Revised Uniform Athlete Agents Act went virtually nowhere because the same key chair of the same key committee, the House Intrastate Commerce Committee, was not interested in taking up the measure. So it just died.

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

Commissioner Takayama reported that the Commission was asked to put the bill in again. The uniform law version basically died at the starting block because the first committee to hear it was the House Labor Committee and the chair of that committee chose to go with a similar bill, but based on the American Civil Liberties Union (ACLU)'s proposal, what they call "POAPA". The ACLU bill was moving and the CPUL was not opposing it, but at the end of the session, it died. Mr. Toyofuku noted that during the last week of the session, the Speaker of the House discharged the conferees on about twenty bills.

THE UNIFORM CERTIFICATE OF TITLE FOR VESSELS ACT (UCOTVA).

Commissioner Takayama stated that the Department of Land and Natural Resources (DLNR) wanted the Uniform Certificate of Title for Vessels Act enacted. It passed without hardly any difficulty. There was one problem that had to do with the open records law. The Civil Beat Law Center for the Public Interest wanted to use a different standard with respect to the records that would be

generated by the act. Chairman Ewart noted that the DLNR was very appreciative of the work the National Conference of Commissioners on Uniform State Laws, now known as the "Uniform Law Commission" or "ULC," did initially and of the help that Commissioner Takayama gave them. This bill passed and was signed by the Governor.

THE UNIFORM REGULATION OF VIRTUAL CURRENCY BUSINESSES ACT (URVCBA).

Life Member Toyofuku reported that the House had a three-panel information briefing on URVCBA, which included Iris Ikeda, the Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs (DCCA), and two others on the different versions of the bill. Although the panel did a good job explaining the act, the people were confused.

The ULC version of URVCBA was introduced by Senator Mike Gabbard. There was another bill that was supported by the DCCA. It was an uphill fight the entire way because Iris Ikeda wanted to go with a very different approach, namely classifying virtual currency businesses as money transmitters. The bill did not pass. There was opposition from the House in believing that the DCCA bill was inadequate from the standpoint of consumer protections. When the bill went to conference, the House conferees on the bill were discharged before the Senate could even name their conferees.

Commissioner Hamasaki added that under DCCA Division of Financial Institutions (DFI) regulations, the reserve requirement apparently was creating a problem for all of the industry. They cannot function in Hawaii because of the DFI interpretation on the reserve requirement. He felt that the industry side would like that taken care of so that there are no regulations. They would be happy with the DCCA bill, which has less regulation. There are probably no businesses in Hawaii because the reserve requirement is still in place. Commissioner Takayama referred to it as double collateralization, where you have to have money available for both sides of transmission, which has been imposed by the DCCA, which is treating virtual currency businesses like money transmitters even though there is no law doing it or authorizing it.

Commissioner Takayama prepared a draft response to an email from Oklahoma Commissioner Fred Miller, Chair of the Standby Committee on the Uniform Regulation on Virtual Currency Businesses Act, asking each state to report its plans to enact URVCBA in 2019. His draft goes through the background of what was encountered during the 2018 legislative session, which was that DCCA

wanted to go with licensing virtual currency businesses as money transmitters. The private sector people generally supported that approach because they thought it was the easiest way to get some kind of structure in place to allow virtual currencies and they would support anything to get things moving because there is nothing going on in the state now in terms of virtual currency business activity. There were a few people in the House concerned about the lack of consumer protection elements in the DCCA bill. The support for the DFI proposal came from the Senate Consumer Protection Committee.

Oklahoma commissioner Fred Miller, the Chair of the ULC Standby Committee on URVCBA, has said that there are materials that explain why the money transmitter route is not a good one. Commissioner Takayama confirmed that the CPUL can use some help in convincing people. He asked if the CPUL should say that going the route of having virtual currency businesses included in the money transmitter act is a bad idea or say that the ULC product, the URVCBA, is a superior alternative. Chairman Ewart stated that they would need to work on persuading the DFI in order to have a chance to pass URVCBA.

Commissioner Hamasaki said that after looking at both acts, he felt URVCBA is not that different from the money transmitters law in terms of the way it is regulated. He asked if the CPUL should consider putting out a product that amends the existing money transmitter statute. Chairman Ewart felt that it is such a complicated issue that the CPUL should find out how the ULC and other states address the issue.

Commissioner Takayama brought up that there is a second bill that amends the first bill, which would bring up a weird situation where the CPUL would be supporting two bills, one of which is supplemental to the other. He said he will ask Fred Miller or the Chicago staff of the ULC if there will be a consolidated bill, which would be one vehicle for both acts that the CPUL can support as a single entity.

During the 2018 legislative session, the CPUL also attempted to pass a resolution to trigger a sunrise review of virtual currency businesses, which was shut down by Senator Rosalyn Baker, who said that a sunrise review was not necessary. Commissioner Takayama felt that the DCCA proposal had an advantage because it did not require a sunrise review, because money transmitters had already undergone a sunrise review when it got established.

Life Member Toyofuku revealed that he was involved in the money transmitter act because a client was concerned about an ambiguity as to whether gift cards were

part of the URVCBA. The client did not want gift cards to be included in the URVCBA because they are already regulated under a different law. He talked to Iris Ikeda and Katie Robinson, the ULC Legislative Program Director, who told him that many states are not using the uniform act, but are going through the money transmitters law in each particular state.

4. NEW BUSINESS.

- a. 2018 Annual Meeting of the National Conference of Commissioners on Uniform State Laws to Be Held in Louisville, Kentucky, from July 20-26, 2018.

Chairman Ewart confirmed that everyone was going to attend the 2018 annual meeting in Louisville, Kentucky, except Commissioner Elizabeth Kent and Associate Member Kato.

ANNUAL MEETING ASSIGNMENTS

Chairman Ewart went through the 2018 annual meeting agenda and stated the need to determine which commissioner is following which uniform act. The commissioners discussed the annual meeting agenda and assignments to the draft uniform laws on the agenda. The commissioners volunteered to serve as the primary and secondary persons responsible for monitoring the various proposed uniform acts as follows:

FRIDAY, JULY 20, 2018

9:00 a.m. – 12:00 p.m. (First Session)

11:00 a.m. – 12:00 p.m.

Consideration of the Uniform Fiduciary Income and Principal Act

Peter Hamasaki
Kevin Sumida

1:30 p.m. – 6:00 p.m. (Second Session)

1:30 p.m. – 4:30 p.m.

Further Consideration of the Uniform Fiduciary Income and Principal Act

Peter Hamasaki
Kevin Sumida

4:30 p.m. – 6:00 p.m.

Consideration of the Uniform Supplemental
Commercial Law for the Uniform Regulation
of Virtual Currency Businesses Act

Ken Takayama
Kevin Sumida
Peter Hamasaki

SATURDAY, JULY 21, 2018

7:00 a.m. – 8:00 a.m. Legislative Breakfast

All Commissioners

8:00 a.m. – 12:00 p.m. (Third Session)

8:15 a.m. – 11:00 a.m.

Consideration of the Amendments to UCC
Articles 1, 3, 8, and 9

Lani Ewart
Peter Hamasaki

11:00 a.m. – 12:00 pm

Consideration of the Uniform Nonparent
Custody and Visitation Act

Kevin Sumida
Ken Takayama

1:30 p.m. – 6:00 p.m. (Fourth Session)

1:30 p.m. – 5:00 p.m.

Further Consideration of the Uniform Nonparent
Custody and Visitation Act

Kevin Sumida
Ken Takayama

SUNDAY, JULY 22, 2018

8:00 a.m. – 12:00 p.m. (Fifth Session)

8:00 a.m. – 10:00 a.m.

Consideration of the Uniform Criminal Records
Accuracy Act

Ken Takayama
Kevin Sumida

MONDAY, JULY 23, 2018

8:00 a.m. – 12:00 p.m. (Sixth Session)

8:00 a.m. -- 9:30 a.m.

Further Consideration of the Uniform
Criminal Records Accuracy Act

Ken Takayama
Kevin Sumida

9:30 a.m. – 11:00 a.m.

Consideration of the Civil Remedies for
Unauthorized Disclosure of Intimate Images
Act

Peter Hamasaki
Robert Toyofuku
Kevin Sumida

1:30 p.m. - 5:00 p.m. (Seventh Session)

1:30 p.m. – 4:00 p.m.

Further Consideration of Civil Remedies
for Unauthorized Disclosure of Intimate
Images Act

Peter Hamasaki
Robert Toyofuku
Kevin Sumida

4:00 p.m. – 5:00 p.m.

Consideration of the Amendments to Revised
Uniform Law on Notarial Acts

Peter Hamasaki
Kevin Sumida

TUESDAY, JULY 24, 2018

8:00 a.m. – 12:00 p.m. (Eighth Session)

10:30 a.m. – 12:00 p.m.

Consideration of the Electronic Wills Act

Lani Ewart
Kevin Sumida

1:30 p.m. – 5:00 p.m. (Ninth Session)

1:30 p.m. – 3:00 p.m.

Further Consideration of the Electronic Wills Act

Lani Ewart
Kevin Sumida

3:00 p.m. – 5:00 p.m.

Consideration of the Registration of Canadian
Money Judgments Act

Peter Hamasaki
Lani Ewart

WEDNESDAY, JULY 25, 2018

8:00 a.m. – 12:00 p.m. (Tenth Session)

8:00 a.m. – 11:00 a.m.

Consideration of the Tort Law Relating to Drones Act

Robert Toyofuku
Ken Takayama

11:00 a.m. – 12:00 p.m.

Consideration of the Highly Automated Vehicles Act

Kevin Sumida
Robert Toyofuku

1:30 p.m. – 6:00 p.m. (Eleventh Session)

1:30 p.m. – 3:30 p.m.

Further Consideration of the Highly Automated
Vehicles Act

Kevin Sumida
Robert Toyofuku

THURSDAY, JULY 26, 2018

8:00 a.m. – 9:00 a.m. (Twelfth Session)

8:00 a.m. – 9:00 a.m.

Further Consideration of the Highly Automated
Vehicles Act

Kevin Sumida
Robert Toyofuku

LEGISLATIVE BREAKFAST.

Life Member Toyofuku reported that the Legislative Breakfast will be on Saturday, July 21, 2018, at 7:00 to 8:00 a.m. The states at the breakfast will be North Carolina, Oklahoma, New York, Wisconsin, New Hampshire, Vermont, South Dakota, Colorado, Georgia, Tennessee, and Mississippi. He also noted that California will not be at the annual meeting because California has a policy that if certain states do not adhere to certain policies, they are prohibited from participating at certain state functions. He believed it was because of Kentucky's transgender bathroom issue. Life Member Toyofuku noted that the ULC wants every member of the Legislative Council to go to each of the four breakfasts or lunch, so he has to attend all of them this year.

LEGISLATIVE INTRODUCTION PLAN FOR 2019.

Commissioner Takayama is working on Hawaii's legislative plan for 2019. He has prepared a draft addendum to the plan regarding CPUL's plan to enact URVCBA in 2019. Chairman Ewart asked that the commissioners review the draft and send comments to Commissioner Takayama. She conceded that it would be very difficult to get URVCBA passed during the 2019 legislative session.

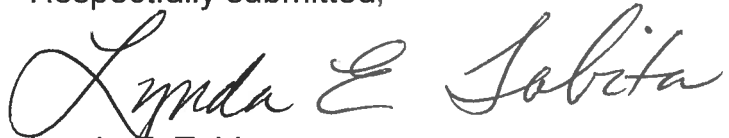
b. Other New Business.

There was no other new business.

5. ADJOURNMENT.

There being no further business, Commissioner Sumida moved, and Commissioner Hamasaki seconded, that the meeting be adjourned. The motion carried unanimously and the meeting was adjourned at 2:16 p.m.

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: 10/25/2018