

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

Commission to Promote Uniform Legislation

**Minutes of Meeting
Held on December 15, 2020**

I. CALL TO ORDER

Pursuant to the written public notice posted on the State of Hawaii Calendar of Events on December 8, 2020, at 10:30 a.m., and filed in the office of the Lieutenant Governor on December 8, 2020, at 11:15 a.m., the meeting of the Commission to Promote Uniform Legislation (CPUL) was called to order by Chair Lani L. Ewart at 10:02 a.m. on Tuesday, December 15, 2020, via Zoom conferencing facilitated by Daniel Jacob, Deputy Attorney General, who also acted as a Zoom moderator.

Commissioners present: Lani L. Ewart
Peter Hamasaki
Elizabeth Kent
Blake Oshiro
Kevin Sumida

Commissioner(s) Absent: None

Also Present: Ken Takayama, Life Member of the National Conference of Commissioners on Uniform State Laws (ULC)
Robert S. Toyofuku, Life Member of the ULC
Jill T. Nagamine, Deputy Attorney General
Maurice S. Kato, Deputy Attorney General
Kotoba Kanazawa, Deputy Attorney General
Loredana Barth, Legal Clerk for the Legislative Division of the Department of the Attorney General

II. APPROVAL OF MINUTES OF MEETING OF NOVEMBER 26, 2019

Chair Ewart asked the commissioners to review the minutes of the meeting held on November 26, 2019. Commissioner Kent moved and Commissioner Hamasaki seconded the motion to approve the minutes of November 26, 2019. The motion passed unanimously, with all the commissioners voting in favor of the motion by roll call vote.

III. OLD BUSINESS

a. Status of Previously Proposed Legislation.

This item was discussed in conjunction with item III.b.

b. Review of Status of Bills to Enact Uniform Laws in the 2020 session.

(1) Uniform Employee and Student Online Privacy Protection Act (UESOPPA).

Commissioner Hamasaki reported that he worked out an agreement with the American Civil Liberties Union (ACLU) on the bill to enact the UESOPPA during the 2020 session, but due to the pandemic, the bill fell by the wayside. Commissioner Oshiro commented that he felt that 90-95 percent of the Legislature was in agreement with UESOPPA, but reiterated that the bill fell off the table due to the COVID-19 pandemic.

(2) Revised Uniform Law on Notarial Acts (RULONA).

Commissioner Hamasaki stated he worked very hard with the title companies and with Commissioner Oshiro to support the passage of the RULONA bill. When the Legislature reconvened after the recess necessitated by the COVID-19 pandemic, the RULONA bill was adopted. There were some differences from the uniform law with a little more focus on the electronic provisions. Commissioner Hamasaki reported that Deputy Attorneys General Dean Soma and Kotoba Kanazawa of the Civil Recoveries Division of the Department of the Attorney General also worked hard to get this legislation passed. Commissioner Sumida asked if there was a difference between the Acts and the Rules in the Governor's COVID-19 Emergency Proclamation. Ms. Kanazawa indicated there were some differences.

Chair Ewart asked Commissioner Hamasaki if the State would get credit with the ULC for passing the RULONA, even though the RULONA bill that passed differed from the ~~(model Act)~~ ^{uniform act} in some areas. Commissioner Hamasaki stated that he was not sure who at ULC to ask. Mr. Toyofuku stated that he would follow up with the national office to see if Hawaii would get credit for the legislation passing (he believed it would but was not certain). Chair Ewart commented that she knew Patricia Fry, ULC Commissioner from New Mexico, and Suzanne Walsh, ULC Commissioner from Connecticut, who gave a webinar on electronic notaries, and they might know. Commissioner Hamasaki said he was working on an amendment, but did not provide a draft.

(3) Other bills

Chair Ewart asked if there were any other Uniform Acts introduced in Hawaii in 2020. A question was asked if there had been anything about the Uniform Trust Code. Chair Ewart shared that the Bar Association is reviewing the Trust Code, but she opined that like many other bills this year, it was being postponed and she doubted that it would be on 2021's list of proposals.

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IV. NEW BUSINESS

a. 2020 Annual Meeting of the National Conference of Commissioners on Uniform State Laws held virtually on July 10-15, 2020.

The ULC discussed and adopted the following three Acts:

- (1) Public Expression Protection Act ~~(Commissioners Hamasaki, Oshiro, and Sumida are on the committee)~~ gjm
- (2) Uniform Pretrial Release and Detention Act ~~(Mr. Takayama and Commissioner Kent are on the committee)~~ and gjh
- (3) Uniform Easement Relocation Act – Commissioner Hamasaki is following the Act but is not on the committee.

Commissioner Sumida stated that it was the first time in over 100 years the ULC did not meet in person. He commented that the leaders did a great job of handling such a dramatic change. Some committees met separately, and that helped.

b. Targeted Uniform Acts for the Regular Session of the 2021 Legislature session.

The ULC's list of targeted acts for enactment include the following:

- (1) Foreign-Country Money Judgments Recognition Act
- (2) Revised Limited Liability Company Act
- (3) Revised Unclaimed Property Act
- (4) Uniform Unsworn Declarations Act
- (5) Voidable Transactions Act (Amendments)
- (6) Directed Trust Act
- (7) Parentage Act

Commissioner Kent suggested shelving the targeted acts unless there is a burning desire to introduce something because the Legislature is likely to be more focused on budget and pandemic legislation. Mr. Toyofuku reminded that CPUL is not required to submit legislation on the targeted

acts or even focus on the targeted acts, but the ULC still would like to see some efforts despite the pandemic. Commissioner Oshiro observed that the Legislature is open to new proposals but in the wake of \$600 million budget cuts he does not think it will be interested in anything that would add burdens to any state agencies. Mr. Toyofuku agreed with Commissioner Oshiro if bills require appropriations.

Chair Ewart stated that it is getting close to the deadline for submissions, so the CPUL may need to wait to submit the targeted acts other than the UESOPPA until 2022. Commissioner Kent expressed that the CPUL may want to consider the Faithless Electors Act but agreed that it should be on the "back burner" until next year. She would like the ULC staff to prepare a memo if there is any interest.

Chair Ewart asked whether there are any other Acts besides the UESOPPA the CPUL should prepare for January. Commissioner Kent moved to consider the Uniform Employee and Student Online Privacy Protection Act. Commissioner Sumida seconded the motion.

Discussion on motion: Chair Ewart stated the UESOPPA was carried over from the last session and should be put in front of the legislators again in January. It would have to be introduced again because of the new Legislature. Commissioner Hamasaki asked whether the CPUL should introduce the compromised version of the UESOPPA that had been in progress during the 2020 session. Commissioner Kent expressed that there would probably be a compromise, and Commissioners Hamasaki and Oshiro should check and collaborate with the ACLU.

Commissioner Kent amended her motion that Commissioners Hamasaki and Oshiro continue their good work on the UESOPPA, decide what version to introduce, and report back to Chair Ewart. Commissioner Sumida seconded the amended motion. The amended motion passed unanimously, with all the commissioners voting in favor of the motion by roll call vote.

Other Targeted Uniform Acts discussed

Mr. Toyofuku wondered about the Power of Attorney Act. Commissioner Takayama reminded him that it passed in 2017. Mr. Toyofuku asked whether the Voidable Transactions Act Amendments should be introduced. Chair Ewart reported that she ran it by the Bar Association, but they were not prepared to support it. She added that she would run it by a partner in her law firm's ~~Trust~~ section for guidance.

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Commissioner Kent stated that she would ask the ULC for a memo on the Faithless Electors Act and send it to Deputy Attorney General Nagamine for distribution. Commissioner Sumida expressed his concerns about it being potentially controversial.

Commissioner Kent left the meeting at 10:58, a few minutes before the meeting was adjourned.

Chair Ewart stated that the CPUL would try to have another meeting right after the Legislative session.

Commissioner Sumida asked Mr. Jacob to explain the nuances of Permitted Interaction Groups (PIG) under Sunshine Laws. Mr. Jacob cited section 92-2.5, Hawaii Revised Statutes, for the CPUL to reference regarding communications between two board members, no serial communications allowed, can designate a PIG, subcommittees have to be noticed. Mr. Jacob referred the CPUL to section 92-2.5 for full information on PIGs.

V. ADJOURNMENT

There being no further business, Chair Ewart adjourned the meeting at 11:05 a.m.

Respectfully submitted,



Loredana Barth
Administrative Assistant
Legislative Division

Approved for Submission:



Jill T. Nagamine
Deputy Attorney General

Approved by the Commission:

_____ As Submitted

X _____ With Corrections *gjh*

Date Approved: 6/25/21 *gjh*