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December 22, 2023

The Honorable Ronald D. Kouchi  
President and Members of the Senate  
Thirty-Second State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki  
Speaker and Members of the  
House of Representatives  
Thirty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the 2023 Report of the Commission to Promote Uniform Legislation. In accordance with section 93-16, HRS, I am also informing you that the report may be viewed electronically at <http://ag.hawaii.gov/publications/reports/reports-to-the-legislature/>.

If you have any questions or concerns, please feel free to call me at (808) 586-1500.

Sincerely,

A handwritten signature in blue ink that reads "Anne E. Lopez".

Anne E. Lopez  
Attorney General

c: Josh Green, M.D., Governor  
Sylvia Luke, Lieutenant Governor  
Legislative Reference Bureau (Attn: Karen Mau)  
Leslie H. Kondo, State Auditor  
Luis Salaveria, Director of Finance, Department of Budget and Finance  
Stacey A. Aldrich, State Librarian, Hawaii State Public Library System  
David Lassner, Ph.D., President, University of Hawaii

Enclosure

JOSH GREEN, M.D.  
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**MATTHEW S. DVONCH**  
FIRST DEPUTY ATTORNEY GENERAL

**2023 REPORT OF THE  
COMMISSION TO PROMOTE  
UNIFORM LEGISLATION**

*Submitted to  
The Thirty-Second State Legislature  
Regular Session of 2024*

TO THE HONORABLE MEMBERS OF THE THIRTY-SECOND LEGISLATURE:

The Hawaii Commission to Promote Uniform Legislation (CPUL), the members of which are Hawaii's representatives to the National Conference of Commissioners on Uniform State Laws, respectfully submits this 2023 Report.

**TABLE OF CONTENTS**

I.	HISTORY OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS (NOW REFERRED TO AS THE UNIFORM LAW COMMISSION)	2
II.	PROCEDURES OF THE ULC	3
III.	OPERATION OF THE ULC	4
	A. Financial Support of the ULC	4
	B. Creation of Uniform and Model Acts	6
	C. Administration of the ULC	7
IV.	ACTIVITIES OF THE HAWAII COMMISSIONERS	8
	A. Membership of the Hawaii Commission to Promote Uniform Legislation	8

B.	ULC Committee Assignments	9
C.	Meetings Attended	12
D.	Legislative Appearances by the Hawaii Commissioners	13
V.	UNIFORM ACTS ENACTED IN HAWAII	13
A.	Uniform Acts Introduced for Enactment in 2023	13
B.	Uniform Acts Enacted in Hawaii	14
VI.	A SUMMARY OF NEW UNIFORM ACTS	14
A.	Uniform Consumer Debt Default Judgments Act	14
B.	Uniform Health-Care Decisions Act (2023)	14
C.	Model Public-Health Emergency Authority Act	15
D.	Uniform Special Deposits Act	15
E.	Uniform Unlawful Restrictions in Land Records Act	15
VII.	RECOMMENDATIONS FOR ENACTMENT IN 2024	16
VIII.	CONCLUSION	16

Table of Uniform Acts Enacted in Hawaii

Appendix i-vi

# **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 about 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 Springs, 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.

Very early on, the ULC became known as a distinguished body of lawyers. The ULC has attracted some of the best of the profession. Woodrow Wilson became a member before his service as President of the United States. Several Justices of the Supreme Court of the United States were previously members: former Justices Brandeis, Rutledge, and Souter, and former Chief Justice Rehnquist. Legal scholars have served in large numbers, including Professors Wigmore, Williston, Pound, and Bogert. Many more distinguished lawyers have served since 1892.

In each year of service, the ULC steadily increased its contribution to state law. Since its founding, the ULC has drafted more than 300 uniform laws on numerous subjects and in various fields of law, setting patterns for uniformity across the nation. Uniform Acts include the Uniform Probate Code, the Uniform Partnership Act, the Uniform Limited Partnership Act, the Uniform Anatomical Gift Act, the Uniform Interstate Family Support Act, the Uniform Child Custody Jurisdiction and Enforcement Act, and the Uniform Prudent Management of Institutional Funds Act.

Most significant was the 1940 ULC decision to attack major commercial problems with comprehensive legal solutions – a decision that set in motion the project to produce the Uniform Commercial Code (UCC). Working with the American Law Institute, the UCC took ten years to draft and another 14 years before it was enacted across the country. It remains the signature product of the ULC.

Today the ULC is recognized for its work in commercial law, family law, the law of probate and estates, the law of business organizations, health law, and conflicts of law, among other areas.

The ULC 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.

Each member jurisdiction determines the number of uniform law commissioners it appoints to the ULC, the terms of uniform law commissioners, and the individuals who are appointed from the legal profession of that jurisdiction. The ULC encourages the appointing authorities to consider, among other factors, diversity of membership in their uniform law commissioners, including race, ethnicity, and gender, in making appointments. The ULC does its best work when the uniform law commissioners are drawn from diverse backgrounds and experiences.

## **II. PROCEDURES OF THE ULC**

The ULC is usually convened as a body once a year at its annual meeting, for a period of six or seven days in July. In the interim period between these annual meetings, drafting committees composed of commissioners meet to supply the working drafts that are considered at the annual meeting. At each annual meeting, the work of the drafting committees is read and debated. Each Act is generally considered over a period of two years. No Act becomes officially recognized as a Uniform Act until the

Uniform Law Commission is satisfied that it is ready for consideration in the state legislatures. It is then put to a vote of the states, during which each state caucuses and votes as a unit.

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 UCC, 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.

### **III. 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 UCC, 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 ULC also permits the states to tap into the skills and resources of the legal profession for very little cost. No ULC Commissioner is paid for his or her services. Commissioners receive 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 ULC 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 \$3,243,480 in fiscal year 2023-2024. The smallest state contribution is \$21,315 (for the U.S. Virgin Islands), and the largest is \$187,790 (for California and New York). Hawaii's contribution for fiscal year 2023-2024 is \$39,845, 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 150 enactments of uniform acts, amendments to uniform acts, and revised uniform acts. Hawaii has received substantial and valuable services for its investment.

The annual budget of the ULC comes to \$5,042,528 for the current fiscal year (July 1, 2023, to June 30, 2024). Approximately 40 percent of this budget will be used to study and draft acts, including holding the ULC annual meeting where the acts are presented to the commissioner body for approval. Another 30 percent is spent assisting state legislatures with bill enactment and public education regarding Uniform and Model Acts. The remainder of the budget pays for general administrative costs, governance costs, and occupancy expenses.

The UCC is a joint venture between the ULC and the American Law Institute (ALI). In the 1940s, the Falk Foundation supported the UCC's original development. Proceeds from copyright licensing of UCC materials replenish the original funds. Whenever work on the UCC commences, a percentage of ULC and ALI costs are paid from endowment income.

Grants from foundations, including the Uniform Law Foundation, 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 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.

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 capitals to Capitol Hill in Washington, D.C.

The ULC is comprised of over 350 practicing lawyers, governmental lawyers, judges, law professors, and lawyer-legislators from every state, the District of Columbia,

Puerto Rico, and the U.S. Virgin Islands. Commissioners are appointed by their states to draft and promote enactment of uniform laws that are designed to solve problems common to all the states.

After receiving the ULC's seal of approval, a uniform act is officially promulgated for consideration by the states, and legislatures are urged to adopt it. Since its inception in 1892, the ULC has been responsible for more than 300 uniform laws, among them such bulwarks of state statutory law as the UCC, the Uniform Probate Code, the Uniform Partnership Act, and the Uniform Interstate Family Support Act.

#### 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, which 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 the Scope and Program Committee believes that an idea for an act is worthy of consideration, it usually will recommend that a study committee be appointed. Study committees consider the need for and feasibility of drafting and enacting uniform or model legislation in an area and report back to the Scope and Program Committee. Recommendations from the Scope and Program Committee go to the ULC Executive Committee, which makes the final decisions as to whether to further study a proposal or undertake a drafting project.

Once a subject receives approval for drafting, a drafting committee is selected, and a budget is established for the committee work. Almost all drafting committees have a reporter, and some committees are assisted by two reporters.

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 attend drafting committee meetings and to contribute comments throughout the drafting process. Advisors and observers do not make decisions with respect to the final contents of an act. Only ULC members who compose the drafting committee may participate in any necessary votes.

A committee meets according to the needs of the project. A meeting ordinarily begins on Friday morning and finishes by Sunday noon, to conflict the least with ordinary working hours. During the pandemic, committees were meeting online rather than in person. Most acts require four committee meetings, although some require more. A committee usually produces several 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 at the ULC's annual meeting. The most

current draft is read and debated. The entire text of each working draft is 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. 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 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 has established royalty agreements with major legal publishers that reprint the ULC's uniform and model acts in their publications.

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, the National Conference of State Legislatures, the National Association of Secretaries of State, the National Association of Attorneys General, the Conference of Chief Justices, the National Center for State Courts, and other organizations. Liaison and activities may be conducted with other associations as



interests and activities necessitate.

#### **IV. ACTIVITIES OF THE HAWAII COMMISSIONERS**

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

The Hawaii CPUL was originally created by law in 1911. The CPUL 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 CPUL 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 member of the bar. A deputy attorney general, assigned by the Attorney General to coordinate the review and preparation of legislative bills, provides technical assistance to the CPUL, 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 CPUL during 2022-2023 were as follows:

- (1) Lani L. Ewart;
- (2) Peter Hamasaki;
- (3) Elizabeth Kent;
- (4) Blake Oshiro; and
- (5) Michael Tanoue.

The membership of the CPUL for 2023-2024 has not changed.

Former commissioners Robert S. Toyofuku and Ken Takayama continue 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 Jill T. Nagamine of the Legislative Division was assigned in November 2020 by the Attorney General to provide staff support for the commissioners. Other members of the Legislative Division provide additional support.

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 L. EWART

In 2022-2023, Commissioner Ewart, who is also a Life Member of the ULC, served as the Chair of the CPUL. She was a member of the ULC Executive Committee for 2022-2023, and a member of the Drafting Committee on Special Deposits. By means of interactive conference technology, she attended meetings of the Drafting Committee on Special Deposits and the Executive Committee, and informal meetings of the Drafting Committees on Uniform Acts up for discussion and vote during the ULC 2023 annual meeting. She also attended an in-person meeting of the Drafting Committee on Special Deposits in Tucson, Arizona, and sessions of, and committee meetings held at, the ULC 2023 annual meeting in Honolulu, Hawaii.

Chair Ewart reviewed the testimony of commissioners and life members submitted during the 2023 Legislative Session relating to the Uniform Commercial Code Amendments for Emerging Technologies (House Bill No. 525 and Senate Bill No. 352), Amendments to the Uniform Probate Code (Senate Bill No. 483 and House Bill No. 383), the Uniform Faithful Presidential Electors Act (Senate Bill No. 141), and the Uniform Child Custody Jurisdiction and Enforcement Act (Senate Bill No. 130). She also followed up with comments regarding the uniform laws and the questions raised during the legislative hearings and from interested persons. With the other members of the CPUL, Chair Ewart was a member of the Host Committee for the ULC 2023 annual meeting and responded to numerous inquiries regarding the site of the meeting in Hawaii.

PETER J. HAMASAKI

During the 2023 Hawaii legislative session, Commissioner Hamasaki reviewed bills and prepared testimony and correspondence and provided testimony to several legislative committees on ULC related matters, including Senate Bill No. 141, Relating to Elections, which is based on the Uniform Faithful Presidential Electors Act, and was enacted as Act 114, and on House Bill No. 525 and Senate Bill No. 352, both Relating to the Uniform Commercial Code, and which contained the ULC's 2022 amendments to the Uniform Commercial Code. House Bill No. 525 was enacted as Act 132.

Prior to the ULC 2023 annual meeting, Commissioner Hamasaki also attended ULC Informal Listening Sessions on several ULC draft acts, and was a member of the Host Committee for the ULC 2023 annual meeting.

Commissioner Hamasaki attended the ULC 2023 annual meeting in Honolulu, Hawaii.

#### ELIZABETH KENT

In 2022-2023, Commissioner Kent served on the Committee to Monitor Developments in Civil Litigation and Dispute Resolution. She also was on the United Nations Convention on International Settlement Agreements Resulting from Mediation Committee and on the Gamete Owner Identity Disclosure Study Committee.

For 2023-2024, Commissioner Kent will continue to serve on the Committee to Monitor Developments in Civil Litigation and Dispute Resolution and on the United Nations Convention on International Settlement Agreements Resulting from Mediation Committee.

During 2022-2023, Commissioner Kent spent a significant amount of time on research and work related to two uniform laws that were introduced in the 2023 legislative session, work related to the Uniform Law Foundation, and planning for the ULC 2023 annual meeting that was held on Honolulu in July 2023. She also participated in a working group on Guardianship that Representative David Tarnas organized.

Commissioner Kent also serves as Vice-Chair of the CPUL.

#### BLAKE OSHIRO

In 2022-2023, Commissioner Oshiro continued his service on the Stakeholder Outreach Committee which provided him with participation on several different committees to monitor the need for any outreach to additional stakeholders for input or review.

He attended by means of interactive conference technology a Hawaii Legislative Planning Session. He also helped testify and lobby for the bills identified by the CPUL as priority issues for the 2023 legislative session.

During the ULC 2023 annual meeting, he was designated as the Chair for the floor session of the committee of the whole when the Uniform Law Commission held its first reading of the Antitrust Pre-Merger Notification Act.

In 2023-2024, he will continue to serve on the ULC Stakeholder Outreach Committee and will continue to assist with lobbying efforts at the Hawaii State Legislature on bills that have been identified as priorities by the CPUL.

### MICHAEL TANOUE

In July 2023, Commissioner Tanoue participated in person at the ULC 2023 annual meeting held in Honolulu, where he attended sessions to consider the Uniform Consumer Debt Default Judgments Act, the Uniform Health-Care Decisions Act, and the Tenants in Common Transactions Act. At the ULC 2023 annual meeting, Commissioner Tanoue also attended the Legislative Lunch and Presentation.

Commissioner Tanoue continues to serve on the ULC's Study Committee on Indian Child Welfare Act Issues. He also is serving on a Working Group on Guardianship coordinated by Representative David Tarnas.

### KEN H. TAKAYAMA

During 2022-2023, Life Member Takayama served on the ULC's Standby Committee on the Deployed Parents Custody and Visitation Act. He also served on the ULC's Standing Committee on Membership and Attendance, the Legislative Committee (as Hawaii's Region 5 Liaison member), and the Committee of Legislative Attorneys.

While he is no longer a voting member of the CPUL, Life Member Takayama actively supports the CPUL in a variety of ways. These include:

- (1) Attending all meetings of the CPUL;
- (2) Participating in other functions such as attending informal meetings on various uniform acts;
- (3) Supporting and assisting the CPUL in getting legislative bills prepared for introduction;
- (4) Submitting testimony and attending legislative hearings; and
- (5) Answering questions and providing information.

In 2022-2023, Life Member Takayama participated in efforts by the CPUL to pass the Uniform Parentage Act, including participating in meetings on the bill prior to the legislative session. He also worked with the CPUL members to support the passage of a measure to improve penalties that may be imposed upon Faithless Presidential Electors.

Life Member Takayama also worked with the CPUL members in assisting the national ULC office to plan the ULC 2023 annual meeting, which was held in Honolulu. Life Member Takayama served on the Host Committee for the ULC 2023 annual meeting.

### ROBERT S. TOYOFUKU

For 2022-2023, Life Member Robert S. Toyofuku served as a member of the ULC's Legislative Council and will continue to serve on the Legislative Council during 2023-2024. 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 grouped into regions and are represented by a commissioner designated as the liaison member for that jurisdiction who is responsible for the legislative programs in the states in that assigned region. The represented jurisdictions are grouped into thirteen regions. Life Member Toyofuku is responsible to oversee the legislative activities in the states in Region 5 (California, Hawaii, Nevada, and Utah) and to work with the liaisons from each of those states.

In 2022-2023, Life Member Toyofuku attended several interactive meetings either by conference call or by a Zoom call and participated in Legislative Council calls almost monthly throughout the year. During June 2023, in coordination with the Chicago ULC office and a legislative staff member, he arranged, planned, and assisted in conducting several one-hour calls with the state delegations in the Western Region to discuss future issues and plans. During May 2023, the Legislative Council had a meeting in Chicago and Life Member Toyofuku participated in person at that meeting to discuss future approaches to enact uniform law acts in the several state legislatures. He assisted in the planning of the ULC annual meeting in Honolulu, and attended the ULC annual meeting. During the ULC annual meeting, he met with the Legislative Council, moderated one of the legislative lunches attended by several state delegations, attended several discussions of proposed acts in the general meetings, and was one of the presenters at the legislative awards event. He also participated in Hawaii delegation meetings during the year.

### 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. Committee meetings in 2021-2022 were predominantly attended via interactive conference technology or telephone calls by the CPUL members.

The ULC 2023 annual meeting was held in Waikiki, Hawaii, from July 21 to 27, 2023. All of the commissioners, former Hawaii CPUL members and ULC Life Members Takayama and Toyofuku, and deputy Attorney General Jill T. Nagamine attended the ULC 2023 Annual Meeting in person.

After consideration of the latest drafts, the ULC approved five new uniform acts or amendments to existing acts: Consumer Debt Default Judgments Act, Health-Care Decisions Act, Public-Health Emergency Authority Act, Special Deposits Act, and Unlawful Restrictions in Land Records 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/>.

The ULC 2024 annual meeting will be held in Boston, Massachusetts.

**D. Legislative Appearances by the Hawaii Commissioners.**

Life Member Ken Takayama continues to serve as the CPUL's liaison to the Hawaii State Legislature. The CPUL is advisory to the State Legislature, as well as to the Attorney General. He tracks bills to enact uniform laws and notifies the commissioners when public hearings will be held. Life Member Takayama assists Chair Ewart in assigning bills among the commissioners for advocacy during the legislative session.

During the 2023 Hawaii legislative regular session, the CPUL commissioners reviewed bills and prepared testimony and correspondence and testified in House and Senate committees on various ULC-related bills.

**V. UNIFORM ACTS ENACTED IN HAWAII**

The State of Hawaii has supported the ULC not only by encouraging its commissioners to actively participate in the ULC but also by enacting some of 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 2023.**

During the regular session of 2023, CPUL supported House Bill No. 525, Relating to the Uniform Commercial Code. House Bill No. 525 was passed by the Legislature and approved by the Governor as Act 132, Session Laws of Hawaii 2023, on June 29, 2023. The bill amended various articles and added two new articles, article 12 and article 13, to Hawaii's Uniform Commercial Code.

The CPUL also supported Senate Bill No. 141, Relating to Elections (Uniform Faithful Presidential Electors Act ("UFPEA")). It was passed by the Legislature and approved by the Governor as Act 114, Session Laws of Hawaii 2023, on June 23, 2023.

The CPUL also supported Senate Bill No. 483, Relating to the Uniform Probate Code. It was passed by the Legislature and approved by the Governor as Act 158, Session Laws of Hawaii 2023, on June 29, 2023.

The CPUL also supported Senate Bill No. 944, Relating to the Uniform Parentage Act. This bill established a task force to recommend amendments to update existing parentage laws. It was passed by the Legislature and approved by the Governor as Act 156, Session Laws of Hawaii 2023, on June 29, 2023. Bills that would have enacted the Uniform Parentage Act (House Bill No. 384 and Senate Bill No. 484) did not pass.

**B. Uniform Acts Enacted in Hawaii.**

Attached as Appendix 1 to this report is a table listing the ninety original, amended, or revised uniform acts enacted in Hawaii, 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.

**VI. A SUMMARY OF NEW UNIFORM ACTS**

During the ULC 2023 annual meeting, the ULC considered and adopted five new uniform acts or amendments to existing acts. These acts are briefly described below, based on summaries prepared by the ULC.

**A. Uniform Consumer Debt Default Judgments Act**

Numerous studies report that default judgments are entered in more than half of all debt collection actions. The purpose of this Act is to provide consumer debtors and courts with the information necessary to evaluate debt collection actions. The Act provides consumer debtors with access to information needed to understand claims being asserted against them and identify available defenses; advises consumers of the adverse effects of failing to raise defenses or seek the voluntary settlement of claims; and makes consumers aware of assistance that may be available from legal aid organizations. The Act also seeks to provide a uniform framework in which courts can fairly, efficiently, and promptly evaluate the merits of requests for default judgments while balancing the interests of all parties and the courts.

**B. Uniform Health-Care Decisions Act (2023)**

This Act is intended to supersede the 1993 Uniform Health-Care Decisions Act. This Act enables individuals to appoint agents to make health care decisions for them should they be unable to make those decisions for themselves, provide their health-care professionals and agents with instructions about their values and priorities regarding their health care, and to indicate particular medical treatment they do or do not wish to receive. It also authorizes certain people to make health-care decisions for individuals incapable of making their own decisions but who have not appointed agents, thus avoiding the need to appoint a guardian or otherwise involve a court in most situations. In addition, it sets forth the related duties and powers of agents and healthcare professionals, and provides protection in the form of immunity to both under specified circumstances. This Act shares the goals of the 1993 Act but is revised to reflect changes in how health care is delivered, increases in non-traditional familial

relationships and living arrangements, the proliferation of the use of electronic documents, the growing use of separate advance directives exclusively for mental health care, and other recent developments. The Act also seeks to improve upon the 1993 Act based on decades of experience and knowledge about how people make health-care decisions and about the challenges associated with creating and using advance directives.

C. Model Public-Health Emergency Authority Act

This Act is designed to improve the preparedness of states for public health emergencies. Specifically, the Act clarifies the powers of a governor to declare a public health emergency and to issue orders in response to that emergency. Simultaneously, the Act establishes measures to promote a governor's accountability to the Legislature and to the public at large. The goal of the Act is to empower a governor to act quickly and decisively while also clarifying substantive and procedural limitations to a governor's authority. The Model Act also imposes a sunset provision on every public-health emergency declaration and public-health emergency order, and it requires a governor to make a new record as a condition of renewing declaration or an order.

D. Uniform Special Deposits Act

A special deposit is an account at a bank that holds funds that may be paid upon the occurrence of one or more contingencies. Although such accounts are common, the legal protections afforded to them are uncertain and outdated in the context of modern banking. This uniform act minimizes these legal uncertainties by providing clear and executable rules. First, the Act sets forth several elements for when a deposit is considered a "special deposit." Second, the Act specifies that a special deposit is a debt owed to the beneficiary after determination of a stated contingency. Third, the Act clarifies that a special deposit is remote from a depositor's bankruptcy estate unless the depositor has a determined right to the special deposit in its capacity as a beneficiary. Finally, the Act reduces the vulnerability created by the prospect of the bank holding the special deposit exercising a right of set off against the special deposit for a mature debt of the depositor or a beneficiary. The Special Deposits Act gives banks and their customers legal certainty that the expectations of special deposit account users will be respected.

E. Uniform Unlawful Restrictions in Land Records Act

This Act allows property owners whose deed contains a discriminatory, prohibited restriction to record an amendment to the land records that effectively removes the restriction. Under the Act, individuals who own property in a common interest community that is subject to a prohibited restriction are empowered to record an amendment to the governing instruments that removes the restriction, either by majority vote of the members of the association or by sending a request to the governing body. The Act creates a path forward for property owners who want to correct the record on the often-painful history of their homes.



## **VII. RECOMMENDATIONS FOR ENACTMENT IN 2024**

The Hawaii CPUL annually selects uniform acts that have not yet been enacted in Hawaii and recommends the enactment of those selected uniform acts. However, the CPUL'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. As it does every year, the CPUL 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 2024, the CPUL plans to follow the progress of the Uniform Parentage Act (2017), be prepared to support the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act if the working group introduces it, and follow up on any other uniform acts that may be introduced.

The CPUL is not planning the introduction of any other uniform acts in the 2024 regular session but will monitor any legislation that is based on uniform acts.

## **VIII. CONCLUSION**

The Hawaii CPUL 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 CPUL wishes to express its appreciation for the interest in and support of the CPUL'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  
Chair

**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 (Repealed 2019)
5. Uniform Athlete Agents Act (Revised)	Chapter 481Z
6. Uniform Attendance of Out of State Witnesses Act (1931)(1936)	Chapter 836
7. Uniform Certificate of Title for Vessels Act	Chapter 200A
8. Uniform Child Custody Jurisdiction Act (1968)	Chapter 583 (Repealed 2002)
9. Uniform Child-Custody Jurisdiction and Enforcement Act (1997)	Chapter 583A
10. Uniform Collaborative Law Act	Chapter 658G
11. Uniform Commercial Code (1951)(1957) (1962)(1966) (and Revised Articles)	Chapter 490
12. Uniform Commercial Code Article 1 – General Provisions (2001)(2022)	Article 1, Chapter 490
13. Uniform Commercial Code Article 2A -- Leases (1987)(1990)(2022)	Article 2A, Chapter 490
14. Uniform Commercial Code Article 3 -- Negotiable Instruments (1990)(2022)	Article 3, Chapter 490
15. Uniform Commercial Code Article 4 -- Bank Deposits and Collections (1990)	Article 4, Chapter 490

16.	Uniform Commercial Code Article 4A -- Funds Transfer (1989)(2012)(2022)	Article 4A, Chapter 490
17.	Uniform Commercial Code Article 5 -- Letters of Credit (1995)(2022)	Article 5, Chapter 490
18.	Uniform Commercial Code Article 6 -- Bulk Sales (1989)	Article 6, Chapter 490 (Repealed 1998)
19.	Uniform Commercial Code Article 7 -- Documents of Title (2003)(2022)	Article 7, Chapter 490
20.	Uniform Commercial Code Article 8 -- Investment Securities (1977)(1994)(2022)	Article 8, Chapter 490
21.	Uniform Commercial Code Article 9 -- Secured Transactions (1972)(1999) (2010)(2022)	Article 9, Chapter 490
22.	Uniform Commercial Code Article 12 -- Controllable Electronic Records (2022)	Article 12, Chapter 490
23.	Uniform Commercial Code Article 13 -- Transitional Provisions for Uniform Commercial Code Amendments (2022)	Article 13, Chapter 490
24.	Uniform Common Trust Fund Act (1938)(1952)	Chapter 406
25.	Uniform Controlled Substances Act (1970)(1973)	Chapter 329 (Substantially similar)
26.	Uniform Criminal Extradition Act (Superseded 1980)	Chapter 832
27.	Uniform Custodial Trust Act (1987)	Chapter 554B
28.	Uniform Deceptive Trade Practices Act (1964)(1966)	Chapter 481A
29.	Uniform Determination of Death Act (1978)(1980)	Section 327C-1 (Substantially similar definition)

30.	Uniform Disclaimer of Property Interests Act (1999)	Chapter 526
31.	Uniform Disposition of Community Property Rights at Death Act (1971)	Chapter 510
32.	Uniform Division of Income for Tax Purposes Act (1957)	Part II, Chapter 235
33.	Uniform Durable Power of Attorney Act (1979)(1987)	Chapter 551D
34.	Uniform Electronic Legal Material Act	Chapter 98
35.	Uniform Electronic Transactions Act (1999)	Chapter 489E
36.	Uniform Employee and Student Online Privacy Protection Act (2016)	Chapter 487G
37.	Uniform Enforcement of Foreign Judgments Act (1948)(1964)	Chapter 636C
38.	Uniform Environmental Covenants Act	Chapter 508C
39.	Uniform Rules of Evidence Act (1953)(1974)(1986)(1988)	Chapter 626
40.	Uniform Faithful Presidential Electors Act (2010)	Chapter 14
41.	Uniform Family Law Arbitration Act	Chapter 658J
42.	Uniform Fiduciaries Act (1922)	Chapter 556
43.	Uniform Fiduciary Access to Digital Assets Act	Chapter 556A
44.	Uniform Foreign-Country Money Judgments Recognition Act (2005)	Chapter 658F
45.	Uniform Foreign-Money Claims (1989)	Chapter 658B
46.	Uniform Foreign Money Judgments Recognition Act (1962)	Chapter 658C (Repealed 2009)

47.	Uniform Fraudulent Transfer Act (1984)	Chapter 651C
48.	Uniform Guardianship and Protective Proceedings Act (1997)	Parts 1-4, Article V, Chapter 560
49.	Uniform Health-Care Decisions Act (Modified)	Chapter 327E
50.	Uniform Information Practices Code (1980)	Chapter 92F (Substantially similar)
51.	Uniform Interstate Depositions and Discovery Act	Chapter 624D
52.	Uniform Interstate Family Support Act (1992)(1996)(2015)	Chapter 576B
53.	Uniform Jury Selection and Service Act (1970)(1971)	Part I, Chapter 612 (Substantially similar)
54.	Uniform Limited Liability Company Act (1995) (1996)	Chapter 428
55.	Uniform Limited Partnership Act (1976)(1983)(1985)	Chapter 425D (Repealed, effective July 1, 2004)
56.	Uniform Limited Partnership Act (2001)	Chapter 425E (Effective on July 1, 2004)
57.	Uniform Management of Institutional Funds Act (1972)	Chapter 517D
58.	Uniform Mediation Act (2013) (2014)	Chapter 658H
59.	Uniform Military and Overseas Voters Act	Chapter 15D
60.	Uniform Notarial Acts Act (2010)(2018)	Chapter 456
61.	Uniform Parentage Act (1973)	Chapter 584
62.	Uniform Partition of Heirs Property Act	Chapter 668A

63.	Uniform Partnership Act (1914)(1997)	Part IV, Chapter 425
64.	Uniform Photographic Copies as Evidence Act (1949)	Section 626-1, Rules 1001 to 1008
65.	Uniform Power of Attorney Act (2014)	Chapter 551E
66.	Uniform Premarital Agreement Act (1983)	Chapter 572D
67.	Uniform Principal and Income Act (1997)(2000)	Chapter 557A
68.	Uniform Probate Code (1969)(1975)(1982)(1989)(1990)(1991) (1997)(1998)(2003)(2008)(2010)(2019)	Chapter 560
69.	Model Protection of Charitable Assets Act (2014)	Chapter 28
70.	Uniform Prudent Investor Act (1994)	Chapter 554C
71.	Uniform Prudent Management of Institutional Funds Act (2006)	Chapter 517E
72.	Uniform Public Expression Protection Act (2020)	Chapter 634G
73.	Uniform Real Property Electronic Recording Act (2004) (2005)	Part XII, Chapter 502
74.	Uniform Real Property Transfer on Death Act (2009)	Chapter 527
75.	Uniform Reciprocal Enforcement of Support Act (1950)(1958)(1968)	Chapter 576 (Repealed 1997)
76.	Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act	Chapter 586C
77.	Model Registered Agents Act (2006)	Chapter 425R
78.	Uniform Rendition of Accused Persons (Superseded 1980)	Chapter 833

79.	Uniform Residential Landlord and Tenant Act (1972)	Chapter 521
80.	Uniform Securities Act (1956)(1958)(Superseded 1985)	Chapter 485
81.	Uniform Status of Convicted Persons Act (1964)	Chapter 831
82.	Uniform Statutory Rule Against Perpetuities Act (1986)(1990)	Chapter 525
83.	Uniform Testamentary Additions to Trusts Act (1960)(1961) (Uniform Probate Code § 2-511 (1991))	Chapter 560:2-511
84.	Uniform Trade Secrets Act (1979)(1985)	Chapter 482B
85.	Uniform Transfer-on-Death (TOD) Security Registration Act (1998)	Chapter 539
86.	Uniform Transfers to Minors Act (1983)(1986)	Chapter 553A
87.	Uniform Trustees' Powers Act (1964)	Chapter 554A
88.	Uniform Trust Code (2000)	Chapter 554D
89.	Uniform Unclaimed Property Act (1981)(1995)	Part I, Chapter 523A
90.	Uniform Unincorporated Nonprofit Association Act (1992)(1996)	Chapter 429