

**STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
COMMISSION TO PROMOTE UNIFORM LEGISLATION**

**MINUTES OF MEETING
Held on November 8, 2024**

1. CALL TO ORDER.

Pursuant to written public notice posted on the State of Hawaii Calendar of Events on October 31, 2024, the meeting of the Commission to Promote Uniform Legislation (Commission) was called to order by Chair Lani L. Ewart at 10:33 a.m., on Friday, November 8, 2024, via Zoom conferencing facilitated by Brandon Salbedo of the Department of the Attorney General, who acted as the Zoom moderator. In compliance with section 92-3.7, Hawaii Revised Statutes, a physical meeting site was provided at Hale Auhau First Floor Conference Room, 425 Queen Street, Honolulu, Hawaii 96813.

Commissioners Present: Lani L. Ewart, Chair
Peter Hamasaki
Michael Tanoue
Blake Oshiro

Also Present: Elizabeth Kent,
Ken Takayama, and
Robert S. Toyofuku,
Life Members of the National Conference of
Commissioners on Uniform State Laws, also
referred to as the Uniform Law Commission
(ULC),
Jill T. Nagamine,
Kotoba Kanazawa, and
Maurice S. Kato, Deputy Attorneys General, and
Romina Marquez, Legal Clerk,
Legislative Division of the Department of the
Attorney General

Jill T. Nagamine, Kotoba Kanazawa, and Romina Marquez participated from the physical meeting site via Zoom. The rest of the participants joined the meeting via Zoom remotely. All commissioners attending were visible via Zoom.

2. APPROVAL OF MINUTES OF MEETING OF JUNE 25, 2024.

Chair Ewart asked the commissioners if there were any changes or corrections to the minutes. No one recommended changes.

Motion: Commissioner Tanoue moved to approve the minutes as written, and Commissioner Oshiro seconded the motion. There was no discussion. The motion was approved by voice vote of Chair Ewart and Commissioners Hamasaki, Oshiro, and Tanoue, and the motion was carried. (Incidentally, the non-voting life members of the ULC also voiced their approval.) The minutes of the meeting of June 25, 2024, were approved as written. Chair Ewart thanked the Legislative Division for preparing the minutes.

3. OLD BUSINESS.

Discussion about the 2024 Annual Meeting of the ULC held in Boston, Massachusetts, from July 19-24, 2024.

Chair Ewart reported that she and Life Member Toyofuku attended the meeting. She opined that the meeting went smoothly and was less intense than previous meetings. She attributes this to the ULC's holding informal meetings to help narrow the issues prior to the annual meeting. She said that in ULC President Tim Berg's address, he indicated the ULC is looking very seriously at enactment procedures. Two things President Berg focused on for commissioners were succession planning and getting more involved with the enactment process. A high point for Chair Ewart was the announcement of new commissioners—this year there were six women and eight men. Usually, the men outnumber the women by far more, so she thought this was a step towards inclusion and representation.

Life Member Toyofuku reported that there were several legislative luncheons, and the format was different from the past. Lindsay Beaver, ULC Legislative Counsel, introduced topics for discussion instead of having each state repeat what the State did in its own legislative session. The topics included specific problems that arose in each state, and how those problems were addressed and how they might be addressed if they arise in other states. Life Member Toyofuku felt this new format was more beneficial than the previous state recaps.

Life Member Toyofuku echoed Chair Ewart's opinion that the annual meeting went smoothly. The agenda was reduced from the usual, so that they could concentrate on the proposed uniform acts without it being an overload. There was no dinner dance, just a farewell reception.

Next year's annual meeting is in Sante Fe, New Mexico. ULC Meeting and Event Manager, Rachel Hewitt, already sent a preview of activities that might be available. For planning purposes, the 2025 meeting will be July 18-24, 2025. Chair Ewart expressed her hope that there will be funding to allow more commissioners to attend that meeting.

Life Member Takayama asked how the Boston meeting compared to the Honolulu meeting in 2023. Both Chair Ewart and Life Member Toyofuku said there was no comparison. Attendees kept inquiring where's the beach? Where are the windows? Chair Ewart indicated they were literally in a space with no windows. Families were extremely disappointed. Many mentioned that they would like to have the meeting in Hawaii every other year. Many attendees and ULC staff members asked about the other Hawaii commissioners and missed them being there.

Deputy Attorney General Nagamine asked whether President Berg's address indicated a level of partisanship in the ULC, that is to be avoided. Chair Ewart said ULC takes pride in its product being the result of compromise that all sides are willing to accept. The ULC wants something that can be enacted. Life Member Toyofuku agreed, but pointed out that even with acts that are reached by consensus, it can still be hard for some states to enact them.

Life Member Toyofuku mentioned that in August, after the ULC Annual Meeting, he attended a Legislative Council meeting in Dallas. That meeting is usually in Chicago, the headquarters of the ULC, but it was moved this year due to the Democratic National Convention being held in Chicago at around the same time. Commissioner Tanoue also attended the meeting in Dallas, and he indicated it was a good experience. It was less than a full day, but there was a lot of useful information presented in several sessions.

4. NEW BUSINESS.

a. Discussion of Uniform Acts for Introduction or Support in the 2025 Regular Legislative Session, as follows:

- (1) New Uniform Acts that were approved at the 2024 Annual Meeting of the Uniform Law Commission.

This year, the ULC approved three new acts or amendments to acts:

- (A) Amendments to Unincorporated Organization Acts

Chair Ewart reported that this "Act" encompasses amendments to several other uniform acts that have already been enacted in Hawaii. She opined that the Commission might have to amend the Hawaii acts, act by act. She said that the Commission would definitely need help drafting the amendments to each of the acts into the Hawaii bill format. Life Member Takayama indicated it is a monumental project and that the Attorney General's office should take the lead.

(B) The Uniform Mortgage Modification Act

Chair Ewart indicated that because the Uniform Mortgage Modification Act is a new 2024 act, maybe the Commission should not attempt to enact it in Hawaii just yet, but rather, look at it after other states have enacted it. It is often easier to pass a uniform act if other states pass it first, giving the Commission more traction to support it.

(C) The Uniform Antitrust Pre-Merger Notification Act

Chair Ewart and Life Member Toyofuku indicated that the Attorney General might be interested in this bill. Many state attorneys general bought into this act and supported it. Life Member Toyofuku reported that Kaitlin Wolff, ULC Legislative Program Director, may have reached out to Attorney General Anne Lopez via email, so Life Member Toyofuku will follow up with General Lopez to get her position on this act. Life Member Takayama indicated that Representative Gregg Takayama has always been very supportive of the Commission, and he might also be a resource to get support for this, and other, acts.

(2) Other Uniform Acts that have not been enacted in Hawaii.

Possible Uniform Acts to consider supporting:

(A) Uniform Health-Care Decisions Act

The Department of the Attorney General is looking at submitting a draft of this for possible introduction as part of the Administration's bill package in 2025, but no draft is available to share yet. The ULC is hosting a webinar on this act on November 20, 2024, that might be of interest.

(B) Uniform Consumer Debt Default Judgments Act

Commissioner Tanoue has been in touch with Marvin Dang of the Hawaii State Bar Association's Bankruptcy Section about this act, but based on his contacts, he believes it is unlikely that this act will be enacted in 2025. Mr. Dang has been working on it, and he reached out to the ULC about two possible amendments. The first amendment would affect how default judgments would affect the court system, and it would take a lot of work before it is ready, but the ULC was okay with that modification. The second amendment (to section 4(b)(7)) of the act) requires details about the amount of a

judgment and is a state judicial civil procedure concern. The ULC does not agree to Mr. Dang's second proposed amendment. Commissioner Tanoue reported that several organizations are interested in this act. There is a lot of groundwork to be done before the act will be ready for introduction--maybe it will be ready by 2026.

(C) Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act

Commissioner Tanoue and Life Member Kent reported that Representative Tarnas has supported this act. Life Member Kent reported, and Commissioner Tanoue agreed, that they do not recommend that the Commission introduce the whole act, but maybe ought to support a couple of its parts. Ben Orzeske, ULC Chief Counsel, has said that piecemeal introduction of an act is not the preferred way to go, but something may be better than nothing.

(D) Uniform Fiduciary Income and Principal Act (2018)

The Commission should work with the Judiciary and the Estates and Trusts section of the Hawaii Bar prior to any introduction of this act.

(E) Uniform Parentage Act

Deputy Attorney General Nagamine reported that she reviewed a draft of this bill in conjunction with her review of the final report to the 2025 legislature of the Task Force to Recommend Amendments to Hawaii Parentage Laws. A draft bill is being proposed as a recommendation of the task force. Life Member Kent is concerned that the 2017 version of article IX might be recommended instead of the 2024 version.

(3) Deliberation of which Uniform Acts to attempt to introduce in Hawaii.

The Commission discussed possibly taking action on the Uniform Antitrust Pre-Merger Notification Act, maybe some portions of the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, the Uniform Health-Care Decisions Act, and the Uniform Parentage Act, although Life Member Kent indicated she would want to see what is introduced before determining how to respond to a bill on the Uniform Parentage Act.

Commissioner Oshiro said that drafts by the beginning of December would be good timing to help shop around to find supporters in the Legislature.

As for drafting, the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act is being drafted by Representative Tarnas or Daintry Bartholdus of the Hawaii State Council on Developmental Disabilities. The Uniform Health-Care Decisions Act is being drafted by the Attorney General's Office and the Uniform Parentage Act is being drafted by the Task Force to Recommend Amendments to Hawaii Parentage Laws. Chair Ewart asked Life Member Toyofuku if he can find drafters for other bills if necessary, and he reported his impression that the Legislative Division of the Department of the Attorney General used to draft all of the CPUL's bills for introduction. Deputy Attorney General Nagamine stated that based on current Legislative Division resources, another drafting project would have to be started earlier in the year than November to be ready for a January bill introduction. Life Member Takayama said that legislators cannot introduce a bill unless it is in the correct format. Commissioner Oshiro said that he might be able to find other ways to have bills drafted. The Uniform Antitrust Pre-Merger Notification Act is only four pages, so drafting shouldn't take too long; however, Life Member Toyofuku said that introduction of that act is more a matter of whether or not the Attorney General supports it than how to get it drafted.

Life Member Kent asked Commissioner Oshiro to help her address section IX of the Uniform Parentage Act. Chair Ewart suggested they wait to see what the Task Force to Recommend Amendments to Hawaii Parentage Laws recommends and then raise any concerns. Chair Ewart said she can consult with the ULC Chicago office about differences in the proposed act and the uniform act, if any.

Motion: Commissioner Hamasaki moved to authorize Chair Ewart to request any commissioner to monitor and provide testimony for or against uniform acts or proposed amendments to uniform acts that are introduced in the 2025 regular legislative session. Commissioner Tanoue seconded the motion. There was discussion to clarify the wording of the motion and to remind the commissioners that a similar authority was approved for Chair Ewart prior to the 2024 regular legislative session. The motion was approved by voice vote of Chair Ewart and Commissioners Hamasaki, Oshiro, and Tanoue, and the motion was carried.

Further discussion was held regarding interest in particular uniform acts.

Life Member Kent indicated that Laurence Lau, former Deputy Attorney General and Deputy Director for Environmental Health of the Department

of Health is interested in advance care directives and might be a helpful resource for the Uniform Health-Care Decisions Act. Life Member Kent is interested in the Uniform Parentage Act and the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act. Commissioner Tanoue agreed to be the lead on the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act. Commissioner Hamasaki agreed to be the lead on the Uniform Health-Care Decisions Act.

b. Commission Membership.

Elizabeth Kent retired from her position as commissioner after more than twenty years of excellent contributions to the Commission. She already submitted her resignation to the Governor. She participated in the meeting as a ULC Life Member rather than as a commissioner, and her attendance was not counted towards the quorum needed for the meeting and her vote was not counted on motions. A new commissioner will need to be nominated, and with the advice and consent of the Senate, appointed by the Governor to fill the remainder of her term, which expires on June 30, 2026.

Commissioners Hamasaki and Tanoue are currently holdover members, with their terms having expired on June 30, 2024. Pursuant to section 26-34, Hawaii Revised Statutes, they may continue in office as holdover members until a successor is nominated and appointed, or until the end of the second regular legislative session following their term of office, whichever occurs first. Chair Ewart's term expires June 30, 2025, and Commissioner Oshiro's term expires June 30, 2027.

Commissioner Oshiro will provide a link to the Governor's boards and commissions applications website to find the needed application.

Commissioner Tanoue and Commissioner Oshiro agreed to serve as Legislative Liaisons, whichever of them is available. The Legislative Division of the Department of the Attorney General provides information on bill status of bills related to uniform acts, but Commissioners Tanoue and Oshiro will be the ones to work directly with the Legislature. Life Member Toyofuku will also be available to work with the Legislature. Chair Ewart and Commissioner Hamasaki will fill in where needed on specific bills, as assigned. Life Members Kent and Takayama will help as they are able.

The Vice-Chair position, previously held by Life Member Kent, is vacant and will need to be designated. Chair Ewart offered to step down as Chair and be the Vice-Chair and let someone else be the Chair. No one

volunteered to change the leadership composition, so that discussion is tabled to the next meeting.

5. ADJOURNMENT.

There being no other new business or announcement, Chair Ewart adjourned the meeting at 11:52 a.m.

Respectfully submitted,



Jill T. Nagamine
Deputy Attorney General
Legislative Division

Approved by the Commission:

_____ As Submitted

_____ With Corrections

Date Approved: _____