



Uniform Law Commission

OBSERVER'S MANUAL

2013 EDITION

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UNIFORM LAW COMMISSION

This brief manual has two purposes: (1) to inform you of the purpose, history, organizational structure, and procedures of the ULC; and (2) to explain your role as an Observer in the process of preparing ULC acts.

PURPOSE OF THE UNIFORM LAW COMMISSION (ULC)

The purpose of the Uniform Law Commission (also known as National Conference of Commissioners on Uniform State Laws) is to promote uniformity in state law when uniformity is desirable and practicable. The ULC seeks to improve the law by providing states with non-partisan, carefully considered, and well-drafted legislation that brings clarity and stability to critical areas of the law. To accomplish this, Commissioners participate in drafting acts and endeavor to secure enactment of approved acts in the various states.

HISTORY OF THE ULC

The ULC, one of the oldest state organizations designed to encourage interstate cooperation, was organized in 1892 to promote uniformity in law through voluntary action of each state government. Since its organization, the ULC has drafted more than 300 uniform laws on numerous subjects and in various fields of law; many of these acts have been widely enacted. These include the Uniform Commercial Code, the Uniform Partnership and Limited Partnership Acts, acts on anatomical gifts, arbitration, controlled substances, declaratory judgments and enforcement of foreign judgments, interstate family support, real property and trust and estate law, and on a range of other subjects. Since 2007, the ULC has had between 105 and 130 acts adopted in state legislatures in odd-numbered years (when every legislature meets) and between 82 and 93 acts adopted in even-numbered years (when a number of legislatures do not meet, or hold only truncated sessions).

With the development of interstate transportation and electronic transactions, the states have become increasingly interdependent socially and economically. A single transaction may cross many state lines and involve citizens in many states. Citizens of one state constantly travel to other states or move their residence. Confusion or variation of laws among the several states may present, in some fields, a deterrent to the free flow of goods, credit, services, and persons among the states; restrain full economic and social development; disrupt personal planning; and generate pressures for federal intervention to compel uniformity.

By seeking to alleviate these problems in areas of law traditionally left to the states, the ULC helps to preserve the federal system. Uniformity by state rather than federal action has other benefits. Uniform state laws fit into the other jurisprudence of the states in ways that Congress cannot achieve. When Congress acts, it can be in a preemptive manner. Moreover, ULC acts are developed through a participatory process rather than in hearings that may, or may

not, influence Congressional staff and find reflection in the resulting laws. As one Observer of the uniform laws process remarked: "It is better to be a participant than a supplicant."

ORGANIZATIONAL STRUCTURE OF THE ULC

The ULC is composed of Commissioners on Uniform State Laws from each state, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. In addition, the principal officer of the state agency charged with responsibility of drafting legislation for the state, such as the legislative reference bureau, is an Associate Member of the ULC.

All Commissioners are members of the bar. The Governors of the states and other appointing authorities have appointed lawyers, judges, legislators, and law school professors as Commissioners. A term is typically three or four years. It is common practice for Commissioners to be reappointed and without regard to their political affiliation. Commissioners who have served by official appointment for twenty or more years are eligible for Life Membership.

While Commissioners are obligated to endeavor to procure enactment of Uniform Acts, they represent no special interest in their role as Commissioner. A small staff is maintained at the Chicago office to provide support for all of the ULC's efforts.

The ULC is a state governmental organization. The major portion of its financial support comes from state dues. Individual commissioners receive no salary or compensation. They are reimbursed for the reasonable expenses of attending committee meetings.

PROCEDURES OF THE ULC

The ULC meets annually to consider proposed uniform legislation. Proposals for uniform acts, received from many sources, are referred to the Committee on Scope and Program, which considers proposals. The Scope and Program Committee recommends to the Executive Committee those proposals that should be further explored by a Study Committee. A Study Committee ultimately reports to the Executive Committee its recommendation as to whether it is desirable and feasible to draft a uniform law on the subject it studied.

If the ULC decides to draft a uniform law, a Drafting Committee is appointed. In the case of the Uniform Commercial Code, representatives of the American Law Institute are appointed to the committee. The American Bar Association is invited to appoint an advisor to each drafting committee. Drafts are not submitted to the ULC acting as a Committee of the Whole until they receive extensive committee consideration.

A draft act must be discussed and considered section-by-section by the entire ULC normally at no fewer than two Annual Meetings before the ULC may decide by a vote of states whether to promulgate the draft. Each state is entitled to one vote. An act is not promulgated unless a majority of the states represented at an Annual Meeting (and at least 20 states) have

approved the draft.

In addition, each uniform act is usually submitted to the American Bar Association House of Delegates for approval. The House may only approve or refuse to approve the act; it may not amend a ULC act.

The ULC occasionally drafts model, rather than uniform, acts on subjects that do not directly affect relationships among the states, but which involve problems common to many if not all the states. On other occasions, it drafts uniform state legislation at the request of the U.S. State Department on subjects for which state legislation could help implement international treaties of the United States. On a variety of occasions, Congress or federal agencies even have picked up and used ULC products in federal laws or regulations. On more than one occasion, Congress has explicitly requested that the ULC develop state legislation.

The text of each approved uniform or model act, with notes and comments, is published by the ULC on the ULC website and in *Uniform Laws Annotated*. Major U.S. legal publishers distribute ULC acts in print and electronic form. Working drafts and final versions of ULC acts are available at www.uniformlaws.org

The ULC publishes the *Handbook of the National Conference of Commissioners on Uniform State Laws* (“Handbook”) containing ULC Annual Meeting proceedings and basic statistical data about the Uniform and Model Acts, including a list of the acts adopted and the states that have adopted them. The “Handbook” is available through William S. Hein & Company, Inc., 1-800-828-7571.

OBSERVERS AND THE ULC DRAFTING COMMITTEE PROCESS

Drafting committee chairs or ULC staff will contact organizations and other groups believed to have an interest in a proposed act and ask them to send an Observer to meetings of the Drafting Committee. Observers, usually representing an affected interest or providing special expertise and knowledge, or both, automatically receive notices of committee meetings so that they may attend committee meetings. In addition, any interested individual may sign up on the ULC website, www.uniformlaws.org, to be an observer to any drafting committee.

In addition to Observers, the American Bar Association appoints one or more “advisors” to each drafting committee. The appointment of advisors is governed by agreement between the American Bar Association and the ULC.

While the term “Observer” may suggest a limited role, Observers are encouraged and expected to make substantive contributions to the committee discourse. Observers are at the drafting table with the Drafting Committee in most meetings and discuss the provisions. Observers may, and are encouraged to, provide written comments and suggestions to the chair or chair and reporter both during and in-between drafting committee meetings. Through these Observer contributions, the Drafting Committee receives realistic advice as to the problems, the possible solutions, and ways in which the proposed act, if enacted, would affect interested parties.

Drafting committee meetings are generally open meetings. Every drafting committee meeting is under the control of the committee Chair. It is the Chair who sets the agenda for the meeting and who controls discussion and debate. Most Chairs conduct committee business informally, so that the meetings are excellent sessions of give-and-take. Everybody may contribute ideas and drafting suggestions.

Drafting committees will typically comprise a range of views on the legal subject matter under consideration. Long experience tells us that an open and respectful dialogue among all participants generally results in meaningful legislation that serves all interests best. Ultimately, the Drafting Committee will make decisions based upon its assessment of the policy issues. It will select the best policy possible.

It is extremely important that Observers (and ABA advisors) report back to their organizations concerning the major decisions made at each drafting committee meeting. They should obtain their organization's views concerning the drafting committee's work and report any concerns or suggestions back to the Chair and Reporter. Following this open and iterative drafting process, it is hoped that organizations that participated in the drafting process will provide active support as ULC submits an act for adoption by state legislatures.

In the end, support for an act by Observers and their organizations should be based upon a balanced judgment of the whole act, considering its overall impact. The ULC's objective is promulgation of a uniform act that will result in a substantial overall improvement of the law. Uniformity, clarity, and certainty benefit all interests and should encourage consensus.

We sincerely appreciate your time and commitment and that of your sponsoring organization or group. If you have questions, feel free to ask the Executive Director, the ULC President or the Chair of the Executive Committee (who attend most drafting committee meetings), or the Division Chair, who also attends each drafting committee meeting.