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GOVERNOR



DEPT. COMM. NO. 290

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December 29, 2022

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 2022 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,

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

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**2022 REPORT OF THE
COMMISSION TO PROMOTE
UNIFORM LEGISLATION**

*Submitted to
The Thirty-Second State Legislature
Regular Session of 2023*

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 2022 Report.

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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. 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 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.

The ULC also permits the states to tap 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 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 \$3,089,000 in fiscal year 2022-2023. The smallest state contribution is \$20,300 (for the U.S. Virgin Islands), and the largest is \$178,850 (for California and New York). Hawaii's contribution for fiscal year 2022-2023 is \$37,950, 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 148 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 \$5,067,823 for the current fiscal year (July 1, 2022, to June 30, 2023). Approximately 40 percent of this budget will be used to study and draft acts, including holding the 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 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 capitols to Capitol Hill in Washington, D.C.

The ULC, now in its 131st year, comprises more than 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 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.

III. 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 Commission 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 Commission 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, sits with the Commission to provide technical assistance, 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 Hawaii Commission during 2021-2022 were as follows:

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

The members of the Hawaii Commission for 2022-2023 are as follows:

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

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 and is recognized as an Associate Member of the ULC. 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 2021-2022, Commissioner Ewart, who is also a Life Member of the ULC, served as the Chair of the CPUL. She is a member of the ULC Executive Committee for 2021-2023, 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, a legislative meeting with ULC staff and the Hawaii commissioners, informal meetings of the Drafting Committees on Uniform Commercial Code and Emerging Technologies, on Electronic Estate Planning Documents Act, on Tenancy in Common Ownership Default Rules Act, on Mortgage Modifications Act, and on Restrictive Covenants in Deeds Act. She also attended sessions of, and committee meetings held at, the 2022 Annual ULC Meeting in Philadelphia, Pennsylvania.

Chair Ewart reviewed the testimony of commissioners and life members submitted during the 2022 Legislative Session relating to the Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act, the Uniform Parentage Act, the Uniform Public Expression Protection Act, and Senate Bill No. 2741 (enacted as Act 14, Session Laws of Hawaii 2022), the bill for CPUL's limited exemption from the Sunshine Law, and followed up with comments regarding the uniform laws and the questions raised during the legislative hearings and from interested persons. During the year, she also responded to questions by phone and email regarding various uniform acts and laws.

PETER J. HAMASAKI

In 2021-2022, Commissioner Hamasaki served as a member of the Standby Committee on Uniform Common Interest Ownership Act.

During the 2022 Hawaii legislative session, Commissioner Hamasaki provided testimony to several legislative committees on ULC related matters.

In June 2022, he attended meetings by means of interactive technology, including ULC informal meetings of the Drafting Committees on the Unincorporated Nonprofit Associations Act and Alcohol Direct-Shipping Compliance Act.

Commissioner Hamasaki also has participated in host delegation meetings for the 2023 ULC Annual Meeting to be held in Honolulu, Hawaii, including meeting with the ULC President and staff in October 2022.

ELIZABETH KENT

In 2021-2022, Commissioner Kent served on the Committee to Monitor Developments in Civil Litigation and Dispute Resolution. She chaired a sub-committee to Monitor Civil Litigation and Dispute Resolution that focused on on-line dispute resolution. She also was on the United Nations Convention on International Settlement Agreements Resulting from Mediation Committee.

For 2022-2023, Commissioner Kent will continue to serve on the Committee to Monitor Developments in Civil Litigation and Dispute Resolution and chair its sub-committee. She will also continue to serve on the United Nations Convention on International Settlement Agreements Resulting from Mediation Committee.

During 2021-2022, Commissioner Kent spent approximately 1,400 hours on research and work related to three uniform laws that were introduced in the 2022 legislative session, work related to the Uniform Law Foundation, and planning for the upcoming annual ULC conference to be held on Oahu in July 2023. She also worked on two acts that may be introduced in the 2023 Legislature.

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

BLAKE OSHIRO

In 2021-2022, Commissioner Oshiro continued his service on the Drafting Committee on Public Meetings During Emergencies. He was also appointed to the Committee on Stakeholder Outreach. 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 2022 legislative session, and took the lead advocating for Senate Bill No. 2741, relating to meetings for the CPUL under Hawaii's Sunshine Law, which was passed and became Act 14, Session Laws of Hawaii 2022.

In 2022-2023, he will continue to serve on the Stakeholder Outreach Committee.

MICHAEL TANOUE

Commissioner Tanoue was nominated by the Governor and confirmed by the Senate as the CPUL's new commissioner in 2022.

He attended in person the ULC annual meeting held in Philadelphia, where he attended sessions to consider the Model Public Meetings During Emergency Act and

the Uniform Debt Collection Default Judgments Act. At the annual meeting, Commissioner Tanoue also attended the New Commissioner Lunch, the New Commissioner Cocktail Reception, and the Legislative Lunch.

Commissioner Tanoue recently was selected to serve on the Study Committee on Indian Child Welfare Act Issues.

KEN H. TAKAYAMA

For 2021-2022, Life Member Takayama served on the ULC's Standby Committee on Deployed Parents Custody and Visitation Act, the 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, he continues to provide valuable support to the CPUL's legislative efforts.

He attended sessions of and committee meetings held at the 2022 ULC annual meeting in Philadelphia, Pennsylvania, including meetings related to the Telehealth Act, the Cohabitants' Economic Remedies Act, the Restrictive Employment Agreement Act, the Unregulated Child Custody Transfer Act, and the Model Public Meetings During Emergencies Act.

In 2022, Life Member Takayama participated in efforts by the CPUL to pass the Canadian Domestic Violence Protection Orders Act (House Bill No. 1891). He submitted testimony in support of that bill, and it was enacted as Act 107, Session Laws of Hawaii 2022. He also worked with the other CPUL Commissioners, including submitting supportive testimony, to support the passage of Senate Bill No. 2741. That bill provides a limited exemption from the Sunshine Law that allows the CPUL members to attend and participate together in meetings hosted by the ULC to help promote uniformity of legislation for the State. That bill was enacted as Act 14, Session Laws of Hawaii 2022.

ROBERT S. TOYOFUKU

For 2021-2022, 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 2022-2023. 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 program in that commissioner's home jurisdiction. The represented jurisdictions were grouped into ten regions but that was recently expanded into thirteen regions in September 2021. Life Member Toyofuku was initially responsible for six states in the Western Region and is now 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 2020-2021, 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 from January 2021 through April 2022. During June 2022, 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 2022, 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. There was also discussion on legislative training during the 2022 annual meeting in Philadelphia as well as a possible Legislative Summit planned for the fall of 2022, which was eventually postponed. He attended the ULC annual meeting in Philadelphia, went to a Legislative Council meeting, moderated one of the legislative lunches attended by several state delegations, and attended several discussions of proposed acts in the general meetings. In July 2022 he participated in meetings with the ULC members who are planning the ULC annual meeting in Hawaii in 2023. 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 2022 annual meeting was held in Philadelphia, Pennsylvania, from July 8 to 14, 2022. Commissioners Ewart and Tanoue and former Hawaii CPUL members and ULC Life Members Takayama and Toyofuku attended the 2022 annual meeting in person. Commissioner Hamasaki observed the 2022 annual meeting proceedings remotely via video conference technology.

After consideration of the latest drafts, the ULC approved five new uniform acts or amendments to existing acts: Amendments to the Uniform Commercial Code to Accommodate Emerging Technologies, Uniform Alcohol Direct-Shipping Compliance Act, Uniform Electronic Estate Planning Documents Act, Model Public Meetings During Emergencies Act, and Uniform Telehealth 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/>.

As members of the Host Committee for the ULC Annual Meeting to be held in Honolulu in July 2023, the commissioners and life members have attended numerous organizational meetings with ULC staff and officers via interactive conference

technology. Also, the attendees at the 2022 Annual Meeting met in person with those ULC organizers regarding the upcoming Honolulu meeting.

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 2022 Hawaii legislative regular session, the Commissioners reviewed bills and prepared testimony and correspondence and testified in House and Senate committees on various ULC-related bills. All the commissioners, including former Commissioner Sumida, submitted testimony supporting Senate Bill No. 2741, relating to meetings for the CPUL under Hawaii's Sunshine Law, which was passed and became Act 14, Session Laws of Hawaii 2022.

IV. 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 2022.

During the regular session of 2022, CPUL supported House Bill No. 1891, Relating to the Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act. House Bill No. 1891 was passed by the Legislature and approved by the Governor as Act 107, Session Laws of Hawaii 2022, on June 17, 2022.

The CPUL also supported Senate Bill No. 3329, Relating to Public Participation in Government, which proposed to enact the Uniform Public Expression Protection Act during the 2022 regular session. Senate Bill No. 3329 was enacted as Act 96, Session Laws of Hawaii 2022, on June 17, 2022.

B. Uniform Acts Enacted in Hawaii.

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

V. A SUMMARY OF NEW UNIFORM ACTS

During the 2022 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. Amendments to the Uniform Commercial Code to Accommodate Emerging Technologies

The 2022 amendments to the UCC address emerging technologies, providing updated rules for commercial transactions involving virtual currencies, distributed ledger technologies (including blockchain), artificial intelligence, and other technological developments. The amendments span almost every article of the UCC, including Article 9 to address security interests in digital assets, and add a new Article 12 addressing certain types of digital assets (such as virtual currencies, electronic money, and nonfungible tokens) defined as "Controllable Electronic Records." The amendments provide new default rules to govern transactions involving these new technologies and clarify the UCC's applicability to mixed transactions involving both goods and services. The amendments also contain some miscellaneous revisions unrelated to technological developments but providing needed clarification.

B. Uniform Alcohol Direct-Shipping Compliance Act

This act enhances each state's ability to detect and stop unlawful direct-to-consumer (DTC) shipments of alcoholic beverages to the state's residents. Currently, 47 states permit DTC wine shipments by wineries, and approximately a dozen states permit DTC shipments of other alcoholic beverages. The Act does not create new or additional authorization burdens to ship alcoholic beverages directly to a consumer. Instead, the Act creates new tools for state regulators to use to ensure that existing state laws regarding DTC shipping are obeyed. For instance, the Act provides state regulators with a mechanism for distinguishing between licensed and unlicensed alcohol shipments and to stop businesses illegally shipping alcohol into the state without interfering with the operation of businesses complying with existing state law.

C. Uniform Electronic Estate Planning Documents Act

This new act will fill a gap in the law regarding the execution of certain estate planning documents, including trusts and powers of attorney. The Uniform Electronic Transactions Act authorizes the electronic execution of bilateral contracts if the parties to a transaction agree. The Uniform Electronic Wills Act (UEWA) authorizes the testator of a will and witnesses to execute a will in electronic form. However, trusts, powers of

attorney, and some other types of estate planning documents fell into a legal gray area where the law governing electronic execution was ambiguous. The Uniform Electronic Estate Planning Documents Act clarifies that these documents may also be executed in electronic form. The new act was drafted to complement UEWA and could be adopted by a state simultaneously with that act to comprehensively authorize the electronic execution of wills, trusts, powers of attorney, and several other types of common estate planning documents.

D. Model Public Meetings During Emergencies Act

The COVID-19 pandemic has highlighted the need for public bodies to meet when disasters and other emergencies make in-person meetings of public bodies either impossible or inadvisable. This act is intended to provide a process to ensure that important public meetings can go forward when these events occur consistent with protecting public access to meetings. The act builds on existing state laws authorizing the declaration of emergencies and subjecting public meetings to various procedural and public access requirements. This act is intended to work in harmony with those laws, particularly open meetings and other laws providing for public comment on and participation in the deliberations of public bodies.

E. Uniform Telehealth Act

In recent years, improvements in telecommunication technologies have transformed the delivery of health care. The arrival of the Covid-19 pandemic greatly expanded patient demand for telehealth services. To meet patient needs, many states chose to modify licensure and other requirements that served as barriers to the delivery of telehealth services. Today, many states are re-examining laws related to telehealth, often with an eye toward expanding access to care while maintaining protections for patients. The Telehealth Act has two broad goals. The first is to make clear that, as a general matter, health care services may be provided through telehealth, if doing so is consistent with applicable professional practice standards and the practitioner's scope of practice, as defined by the state in which the patient is located. The Telehealth Act's second goal is to establish a registration system for practitioners who hold licenses in other states. This Act permits a registered practitioner to provide telehealth services to patients located in the state adopting the act.

VI. RECOMMENDATIONS FOR ENACTMENT IN 2023

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. This 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 2023, the CPUL plans to support enactment of the Uniform Parentage Act (UPA), the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, and the Amendments to the UCC to Accommodate Emerging Technologies, which are summarized below:

A. Uniform Parentage Act (2017)

UPA (2017) seeks to ensure the equal treatment of children born to same-sex couples. The act includes provisions for the establishment of a de facto parent as a legal parent of a child and the preclusion of establishment of a parent-child relationship by the perpetrator of a sexual assault that resulted in the conception of the child. It also updates the surrogacy provisions to reflect developments in that area and adds new provisions to address the right of children born through assisted reproductive technology to access medical and identifying information regarding any gamete providers. It was introduced as Senate Bill No. 618 in the 2021 regular session and carried over to the 2022 regular session, but it did not pass

B. Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act

The Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act modernizes the law and protects the rights of individuals who are subject to guardianship and conservatorship. It encourages courts to impose the least-restrictive orders possible to adequately protect vulnerable minors and adults, and to monitor the protective arrangement to continuously adapt to an individual's changing capabilities and needs. It imposes clear duties upon guardians and conservators charged with protecting others and requires regular monitoring to ensure compliance. It allows courts to address specific problems with limited orders and preserve individual rights when possible.

C. Amendments to the Uniform Commercial Code to Accommodate Emerging Technologies

The 2022 amendments to the UCC update and modernize the UCC to address emerging technologies. A new UCC Article 12 on Controllable Electronic Records governs transactions involving new types of digital assets (such as virtual currencies, electronic money, and nonfungible tokens), and corresponding changes to UCC Article 9 address security interests in digital assets. The 2022 amendments also update terminology to account for digital records, electronic signatures, and distributed ledger technology, provide rules for electronic negotiable instruments, and clarify the rules for UCC applicability to hybrid transactions involving both goods and services.

The CPUL is not recommending enactment of any other uniform acts in the 2023 regular session but will monitor any legislation that is based on uniform acts.

VII. 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)	Article 1, Chapter 490
13. Uniform Commercial Code Article 2A -- Leases (1987)(1990)	Article 2A, Chapter 490
14. Uniform Commercial Code Article 3 -- Negotiable Instruments (1990)(1991)	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) (2013)	Article 4A, Chapter 490
17.	Uniform Commercial Code Article 5 -- Letters of Credit (1995)	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)	Article 7, Chapter 490
20.	Uniform Commercial Code Article 8 -- Investment Securities (1977)(1994)	Article 8, Chapter 490
21.	Uniform Commercial Code Article 9 -- Secured Transactions (1972) (1999) (2010)	Article 9, Chapter 490
22.	Uniform Common Trust Fund Act (1938)(1952)	Chapter 406
23.	Uniform Controlled Substances Act (1970)(1973)	Chapter 329 (Substantially similar)
24.	Uniform Criminal Extradition Act (Superseded 1980)	Chapter 832
25.	Uniform Custodial Trust Act (1987)	Chapter 554B
26.	Uniform Deceptive Trade Practices Act (1964)(1966)	Chapter 481A
27.	Uniform Determination of Death Act (1978)(1980)	Section 327C-1 (Substantially similar definition)
28.	Uniform Disclaimer of Property Interests Act (1999)	Chapter 526
29.	Uniform Disposition of Community Property Rights at Death Act (1971)	Chapter 510
30.	Uniform Division of Income for Tax Purposes Act (1957)	Part II, Chapter 235

31.	Uniform Durable Power of Attorney Act (1979)(1987)	Chapter 551D
32.	Uniform Electronic Legal Material Act	Chapter 98
33.	Uniform Electronic Transactions Act (1999)	Chapter 489E
34.	Uniform Employee and Student Online Privacy Protection Act (2016)	Chapter 487G
35.	Uniform Enforcement of Foreign Judgments Act (1948)(1964)	Chapter 636C
36.	Uniform Environmental Covenants Act	Chapter 508C
37.	Uniform Rules of Evidence Act (1953)(1974)(1986)(1988)	Chapter 626
38.	Uniform Family Law Arbitration Act	Chapter 658J
39.	Uniform Fiduciaries Act (1922)	Chapter 556
40.	Uniform Fiduciary Access to Digital Assets Act	Chapter 556A
41.	Uniform Foreign-Country Money Judgments Recognition Act (2005)	Chapter 658F
42.	Uniform Foreign-Money Claims (1989)	Chapter 658B
43.	Uniform Foreign Money Judgments Recognition Act (1962)	Chapter 658C (Repealed 2009)
44.	Uniform Fraudulent Transfer Act (1984)	Chapter 651C
45.	Uniform Guardianship and Protective Proceedings Act (1997)	Parts 1-4, Article V, Chapter 560
46.	Uniform Health-Care Decisions Act (Modified)	Chapter 327E
47.	Uniform Information Practices Code (1980)	Chapter 92F (Substantially similar)

48.	Uniform Interstate Depositions and Discovery Act	Chapter 624D
49.	Uniform Interstate Family Support Act (1992)(1996)(2015)	Chapter 576B
50.	Uniform Jury Selection and Service Act (1970)(1971)	Part I, Chapter 612 (Substantially similar)
51.	Uniform Limited Liability Company Act (1995) (1996)	Chapter 428
52.	Uniform Limited Partnership Act (1976)(1983)(1985)	Chapter 425D (Repealed, effective July 1, 2004)
53.	Uniform Limited Partnership Act (2001)	Chapter 425E (Effective on July 1, 2004)
54.	Uniform Management of Institutional Funds Act (1972)	Chapter 517D
55.	Uniform Mediation Act (2013) (2014)	Chapter 658H
56.	Uniform Military and Overseas Voters Act	Chapter 15D
57.	Uniform Notarial Acts Act (2010)(2018)	Chapter 456
58.	Uniform Parentage Act (1973)	Chapter 584
59.	Uniform Partition of Heirs Property Act	Chapter 668A
60.	Uniform Partnership Act (1914) (1997)	Part IV, Chapter 425
61.	Uniform Photographic Copies as Evidence Act (1949)	Section 626-1, Rules 1001 to 1008
62.	Uniform Power of Attorney Act (2014)	Chapter 551E
63.	Uniform Premarital Agreement Act (1983)	Chapter 572D

64.	Uniform Principal and Income Act (1997)(2000)	Chapter 557A
65.	Uniform Probate Code (1969)(1975)(1982)(1987)(1989) (1990)(1991)(1998)	Chapter 560
66.	Model Protection of Charitable Assets Act (2014)	Chapter 28
67.	Uniform Prudent Investor Act (1994)	Chapter 554C
68.	Uniform Prudent Management of Institutional Funds Act (2006)	Chapter 517E
69.	Uniform Public Expression Protection Act (2020)	Chapter 634G
70.	Uniform Real Property Electronic Recording Act (2004) (2005)	Part XII, Chapter 502
71.	Uniform Real Property Transfer on Death Act (2009)	Chapter 527
72.	Uniform Reciprocal Enforcement of Support Act (1950)(1958)(1968)	Chapter 576 (Repealed 1997)
73.	Uniform Recognition and Enforcement of Canadian Domestic-Violence Protection Orders Act	Chapter 586C
74.	Model Registered Agents Act (2006)	Chapter 425R
75.	Uniform Rendition of Accused Persons (Superseded 1980)	Chapter 833
76.	Uniform Residential Landlord and Tenant Act (1972)	Chapter 521
77.	Uniform Securities Act (1956)(1958) (Superseded 1985)	Chapter 485
78.	Uniform Status of Convicted Persons Act (1964)	Chapter 831

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