

VOL. XIV No. 6 June 1, 2016

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### ***As Legislatures End, a Shift Begins***

In the closing days of the 2016 legislative session, the Vermont legislature passed a resolution (HCR 382) that welcomes the National Conference of Commissioners on Uniform State Laws (ULC) to Vermont for their 125th annual meeting. While this resolution is pro-forma, it signifies both the end of the 2016 legislative session and that states are already preparing for 2017.

Vermont, like most other states, will not be in session when the ULC meeting begins. In fact, as of this publication, only thirteen states remain in session, while another seven will conclude their scheduled business by the end of June. This means that of the 46 states that held legislative sessions in 2016, only six will be in session past June.

For some states, the end of the 2016 legislative session means that it is now time to turn their attention to another session of budget and tax fights. For others, they will begin seeking guidance from the ULC and other national policy organizations for legislative solutions to the public policy questions faced by their respective states. In this edition of the bulletin, you will find a preview of several of the legislative issues that will be addressed by the ULC at their annual meeting.

ABA will continue to track state banking legislation and provide updates on the work of the national policy organizations. For a full list of state banking legislation being tracked by ABA, please visit [www.aba.com/statelegislativetracker](http://www.aba.com/statelegislativetracker).

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### ***States Pursue Unclaimed Property Tweaks Ahead of ULC Action***

The Uniform Law Commission (ULC) is poised to finalize a new revision to the Uniform Unclaimed Property Act (UUPA) at its annual meeting in July, but that has not discouraged states from pursuing their own adjustments to unclaimed property laws this legislative session. Although about 40 states have adopted the UUPA in some form, the Act has not received a comprehensive revision since 1995 and only 16 states have adopted the 1995 iteration—choosing instead to pursue ad-hoc adjustments that have

diluted the uniformity of the statute across the states. At least 15 states have continued that trend this session, pursuing amendments to their unclaimed property laws that adjust escheatment periods, revise abandonment standards, and address audit procedures.

Arizona, for example, enacted a new law to strengthen oversight of contingent fee auditors by the Department of Revenue and clarify the appeals process for companies that dispute audit results. The legislation (HB 2343) was a compromise to address concerns from the business community that contractors working on a contingent fee basis were incentivized to be overly aggressive. Massachusetts introduced similar legislation that would prohibit the use of contingency fee auditors (SB 1710), but that bill has not progressed. The new ULC revision continues to allow for the use of contingency fee contractors by the state.

Florida enacted legislation (SB 966) creating a presumption that individuals listed in the Death Master File (DMF) are deceased, and requiring insurance companies to compare their records against the DMF and remit unclaimed balances. New Jersey is considering similar legislation (S 1968). The Revised UUPA creates a presumption that an insurance company has knowledge of the death of an insured when it finds a match between the DMF and its list of insureds and validates the death. Finally, while Connecticut (HB 5533) and Illinois (HB 4601) considered legislation that would extend the dormancy period for certain types of property, the ULC and most states have tended towards holding dormancy periods steady or shortening them. The ULC hopes that this Revised UUPA will create some consensus around these old divisive questions as well as create a framework for addressing new forms of abandoned property.

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### ***Remote Notarization: Coming to a State Near You?***

The National Association of Secretaries of State (NASS) has established a task force comprised of 13 Secretaries of State to become experts in remote notarization. This task force will serve as the go-to experts in reviewing future policy proposals related to remote notarization. Task force members include Secretaries of State representing Kentucky, Louisiana, Arkansas, Indiana, Iowa, Maine, Maryland, Minnesota, Montana, North Carolina, North Dakota, Pennsylvania and Vermont. In addition to the task force members, staff from Arizona, California, Delaware, Georgia, Oregon, Rhode Island and Washington are also involved in this effort.

The NASS task force will help review the current NASS standards that require notarizations to be performed in-person. Representatives of the task force are in the process of gathering information and seeking private sector experts to help them understand this emerging topic. Of primary concern is ensuring that a remote notaries can judge whether the signer has the capacity to sign documents that may legally bind them. As part of this effort, the task force plans to have remote notary technology providers demonstrate their services at the upcoming NASS meeting in July.

The need for greater understanding of remote notarization was initiated in part by the Uniform Law Commission (ULC) effort to amend the Revised Uniform Law on Notarial Acts to allow for remote notarization for United States citizens residing outside of the United States. If adopted, a United States citizen residing in a foreign state could obtain a notarization of a record required for use in a proceeding in the United States. A notary would perform their service using communications technology that allows the notary located in the United States to communicate simultaneously by “sight and sound” with an individual located outside of the United States and would provide the notary with a means to verify the identity of the individual through technology. For more information on the ULC amendment, please click [HERE](#).

Currently only two states, Montana and Virginia, allow notarization for persons not in the physical presence of the notary. In Montana, the practice is limited to Montana residents for transactions involving property in that state or under the jurisdiction of a Montana court. A Virginia notary, however, may perform a notarization for any person and neither the signer nor the transaction is required to have any

connection to Virginia. This past legislative session, Maryland introduced legislation (HB 1111) that would have permitted notaries licensed in that state to perform remote notarizations. That legislation was withdrawn after receiving an unfavorable report in the committee of jurisdiction. Meanwhile, the issue is being studied in Louisiana in response to a resolution (HCR 218) requesting that the Louisiana State Law Institute study the issue and make recommendations.

Questions have arisen about the legal status of notarization performed in Virginia and whether other states must acknowledge Virginia law. This is an important question for the banking industry which uses notarizations for a variety of purposes including real property transactions, wills, powers of attorney, and managing bank accounts, among other things. Specifically, it is unclear whether Fannie Mae and Freddie Mac will accept documents notarized remotely, putting into question the secondary market for purchasing or guaranteeing residential mortgage loans across the country, and potentially negatively affecting the value and liquidity of those loans.

For more information about the NASS task force, please visit <http://www.nass.org/nass-initiatives/nass-remote-notarization-task-force/>

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### ***Social Media Privacy Act Finalized Ahead of Annual Meeting***

The Uniform Law Commission (ULC) drafting committee for the Employee and Student Online Privacy Protection Act held its final conference call on May 23rd before submitting the draft for the ULC Annual Meeting in July. The Act prohibits employers and educational institutions from requesting, requiring or coercing a current or prospective employee or student to disclose login information for the individual's "protected personal online account." Only accounts that are protected by a login requirement are implicated, and nothing in the Act prevents an employer or educational institution from accessing information that is publically available online. The Act does not apply to accounts provided or paid for by the employer or school or used primarily for school or work. Furthermore, access authorized by federal or state law or the rules of a self-regulatory organization established by statute is permitted.

Twenty-three states currently have laws that address social media privacy between employers and employees, and ten states have considered legislation limiting employer access to social media accounts of employees during their 2016 legislative sessions. In addition to the ULC's efforts in this area, the American Civil Liberties Union (ACLU) and online industry groups have both put forth model laws on social media privacy. Additional information about the ULC's Act, including a comparison to the ACLU and Industry models can be found [HERE](#).

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### ***Revised UFADAA Update***

The Revised Uniform Fiduciary Access to Digital Access Act (UFADAA) is now law in 13 states. The uniform act, Revised UFADAA, was introduced in 31 states this session and allows fiduciaries to manage digital property but restricts their access to the content of electronic communications without the written consent of the original user. The act is a compromise between operational efficiency for fiduciaries and privacy and contract concerns for consumers and web-based companies. Legislation is currently awaiting action by the Governor in Hawaii and Connecticut, and is working its way through legislatures in ten other states.

Revised UFADAA bills failed this session in Alabama, Iowa, Maine, Mississippi, Utah and West Virginia. So far only one state, California, is pursuing a non-uniform version of the act. The California legislation (SB 691) adopts the Revised UFADAA provisions relating to decedents' estates, but does not include the

sections of the uniform act that govern access for conservators, trustees, and agents under a power of attorney.

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### ***ABIA Comments on NAIC Model Laws***

The National Association of Insurance Commissioners (NAIC) is currently working on two model state laws of interest to the banking industry, the first dealing with data security and the second on unclaimed life insurance and annuities. The American Bankers Insurance Association (ABIA), the insurance subsidiary of the American Bankers Association, is actively engaged in these efforts and has provided comments on behalf of ABIA's members that include banks selling insurance products and services, bank-affiliated insurance agencies and insurance companies that work with these agencies.

The NAIC draft model law on data security requires insurance entities to develop an information security program, including oversight of third party service providers. The model law would require notification of consumers about their rights if a data security breach occurs, as well as investigation and remedial measures related to a breach of data security. ABIA is urging NAIC to develop a model law that is consistent with existing law and regulations and that anticipates the development of a broad federal regulatory regime governing data security and the investigation and notification of data breaches. To view ABIA's comment letter, please click [HERE](#).

Last November the NAIC developed a model law to address unclaimed life insurance benefits. The model act provides standards for identifying deceased individuals to pay benefits to beneficiaries under life insurance policies, annuity contracts or retained asset accounts. ABIA efforts to exempt credit life and other policies outside the usual business model of traditional life insurance from such standards on the grounds that credit life and other "pre-need" policies like funeral expenses, are considered to have self-policing mechanisms and as such do not justify requiring the insurer to search records for deaths have recently been accepted by NAIC. To view the ABIA comment letter, please click [HERE](#).

For more information about the ABIA comment letters, please contact [Sarah Ferman](#).

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### ***CSG Shared State Legislation Committee Results***

On May 13, 2016, The Council of State Governments (CSG's) Shared State Legislation (SSL) Committee met in Lexington, Kentucky to decide which bills will be included in CSG's Shared State Legislation publication. The SSL Committee's criteria includes whether the bill addresses a current state issue of national or regional significance, whether the bill provides a benefit to bill drafters and whether the bill provides a clear, innovative and practical structure and approach to solving an issue. Finally, all bills must have become law in at least one state.

At the meeting, the Committee voted to either include the legislation in its semi-annual publication (and online), exclude it, defer consideration, or to publish it as a note for the information of legislators. The SSL Committee will meet next in December in association with CSG's annual meeting in Williamsburg, Virginia. Below are the results of the committee's deliberations:

02-37B-01 Fantasy Contests Act – DEFERRED  
Virginia SB 646

02-37A-04 Uniform Trust Decanting Act - INCLUDED  
New Mexico HB 280

02-37B-05 Financial Services to Marijuana-Related Industries - REJECTED  
Oregon HB 4094

03-37B-04 Student Loan Bill of Rights – INCLUDED AS A NOTE  
Connecticut HB 6915

03-37B-05 Private Student Loan Transparency and Improvement Act – INCLUDED AS A NOTE  
Oklahoma HB 1829

06-37A-07 Neighborhood Conservation and Land Banks - REJECTED  
Delaware SB 66

06-37B-02 Identification Cards for Homeless Persons - REJECTED  
Hawaii SB 273

06-37B-03 Regulation Freedom - REJECTED  
North Dakota HCR 3033

08-37B-06 Unauthorized Use of Personal Identifying Information - INCLUDED  
North Dakota HB 1280

09-37B-03 Fiduciary Access to Digital Assets and Digital Accounts - REJECTED  
Delaware HB 345

09-37B-04 Revised Uniform Fiduciary Access to Digital Assets Act - INCLUDED  
Oregon SB 1554

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### ***ABA State Issues Summit Announced***

The ABA will hold its annual State Issues Summit October 26-28 at the Hotel Allegro in Chicago, IL. This meeting is designed to promote a discussion about strategic state government relations issues. State association executives, state association legislative staff and individuals from financial institutions that work the state capitals are invited to attend.

For more information about this meeting, please visit:  
<http://www.aba.com/Advocacy/Pages/stateissuesummit.aspx>

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### ***ABA Working Group on State Issues***

The ABA Working Group on State Issues (WGSi) holds conference calls on Fridays, at 11AM Eastern. The next call is scheduled for Friday, June 17, 2016. The call-in number is 1-800-579-2540; the ID code is WGSi. Beginning in May, WGSi calls will change to once a month. Below, please find the schedule for the remainder of 2016.

June 17th  
July 15th  
August 19th  
September 16th

October 14th  
November 11th  
December 16th

The ABA Office of General Counsel offers these free calls to all ABA members who are active in state legislation and to personnel from state bankers associations to discuss current state banking legislation. If you have any questions on any topics or issues discussed on the call, please contact [Andy Guggenheim](#) at 202-663-5507, or [Sabrina Bergen](#) at 202-663-5030.

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### **Calendar of Upcoming Events**

#### **Uniform Law Commission Annual Meeting**

*July 8-14 -- Stowe, VT*

#### **National Conference of State Legislatures (NCSL)**

*August 8-11 -- Chicago, IL*

#### **ABA State Issues Summit**

*October 26-28 -- Chicago, IL*

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