Uniform Law Commission Update: Revision of the Uniform Unclaimed Property Act

Hon. Don Stenberg, NAUPA President and Nebraska State Treasurer

Carolyn Atkinson, Esq., Deputy Treasurer for Unclaimed Property and ULC Advisor, West Virginia Treasury

Michael Houghton, Esq., ULC Revise the Uniform Unclaimed Property Act Committee Co-Chairman

Lynden Lyman, Esq., NAUPA Special Counsel

Hon. Beth Pearce, Vermont State Treasurer and ULC Advisor
Where We Are To Date

• PROGRESSION OF ISSUE:
  • Became aware of movement to revise act in 2010
Where We Are To Date

• PROGRESSION OF ISSUE:
• COST and ABA writing own version early in 2012
Where We Are To Date

• PROGRESSION OF ISSUE:
  • Late in 2012, NAUPA moves forward with ULC
Where We Are To Date

• NAUPA FOCUS:
  • Protect Owners’ Rights
Where We Are To Date

ULC COMMITTEE MEETINGS

• State attendance as well as Corporate Affiliates important
• 23 states represented
Background of ULC’s Role and Activities

- The Uniform Law Commission, now 121 years old, is one of the oldest state organizations designed to promote uniformity of laws among the states.
- The ULC is comprised of Commissioners from the 50 states and three U.S. territories. All Commissioners are licensed attorneys and receive no salary or compensation for their work with the ULC.
- The ULC has drafted hundreds of uniform laws on numerous subjects and in various fields, including the Uniform Unclaimed Property Act (UUPA).
Brief History

- The ULC has led in the area of unclaimed property law since the original act was drafted in 1954, the Uniform Disposition of Unclaimed Property Act, which was later revised in 1966.
- The ULC followed with the Uniform Unclaimed Property Act (UUPA) in 1981 and a revision in 1995.
- Most states have adopted one or more version of the uniform act on unclaimed property.
- The UUPA is not the law in any state or territory unless and until enacted into law in a particular jurisdiction.
UUPA Enactment Statistics

• 15 states* - 1995 Act.
• 16 states* - 1981 Act (29 orig).
• 7 states* - 1954/66 Act.
• 8 states* - Unique legislation.
• 11 states* - Mixed.
• *States may also include the US Territories: District of Columbia, Puerto Rico and the U.S. Virgin Islands
Actions to Revise the UUPA

• It has been 19 years since the last revision of the UUPA and there have been numerous changes in business practices affecting unclaimed property, as well as in this area of law, within that time.

• In 2009 through to 2011, various parties and organizations asked the ULC’s Scope and Program Committee to consider revising the 1995 UUPA. The ULC decided not to proceed with revisions to the UUPA, in part due to NAUPA’s concerns as to the appropriateness of a revision in 2011.

• In 2012 NAUPA reconsidered the issue of a UUPA revision and indicates support for a revision at the 2013 ULC mid-year meeting.

• 2013- ULC determines to proceed with a revised Act.
Who is on the committee?

- The ULC Drafting Committee is comprised of:
  - 12 Uniform Law Commissioners
  - Reporter: Charles Trost
  - 4 ABA Advisors: Ethan Millar, Charolette Noel, Scott Heyman and Alexandra Darraby
  - 2 NAUPA Advisors: Beth Pearce, VT State Treasurer; Carolyn Atkinson, Deputy Treasurer for UP in WV
  - Staff Liaisons
Uniform Law Commissioners

- **Michael Houghton** – Co-Chair – Delaware Commissioner and Immediate Past President of ULC
- **Rex Blackburn** – Co-Chair – Idaho Commissioner
- **Charles Trost** – Reporter for the Drafting Committee – Tennessee Commissioner
- **Anita Ramasastry** – Chair of ULC Scope and Program Committee – Washington Commissioner
- **Howard Swibel** – served on the 1981 Act Committee – Illinois Commissioner and Past ULC President
- **Raymond Pepe** – Pennsylvania Commissioner – served on the 1995 Act Committee
- **Gene Lebrum** – South Dakota Commissioner and ULC Past President
- **Floyd Lewis** – North Carolina Commissioner
- **Nora Winkelman** – Pennsylvania Commissioner
- **Mike Sullivan** – Minnesota Commissioner and ULC Past President
- **Bob Tennesen** – Minnesota Commissioner, Past Chair of the ULC Legislative Committee
- **Claire Levy** – Colorado Commissioner
- **Lyle Hillyard** – Utah Commissioner
Reporter’s Role with the Uniform Act

• Reporter’s role with UUPA
  – Bifurcated into two parts: that of Reporter and Draftsman.
  – The Reporter’s role is to solicit from interested parties suggestions of issues to be considered and changes to be made to the most recent Uniform Unclaimed Property Act (1995), obtain information relevant to resolution of the issues, and compile the results. From these sources will come a Report to the Drafting Committee in the form of the Comments to the first draft of the Revised Act.

  – The role of the Draftsman is to research the case law and legal literature in the subject area, review solutions to issues and language used in other acts on the same subject, and from them prepare a first draft of the Revised Act which will be formatted as a redlined version of the 1995 Act showing the additions and deletions made to that Act in the Revised Act in order to express in statutory language the policy decisions arrived at after consideration of the input from the stakeholders, observers, and members of the Drafting Committee.
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<thead>
<tr>
<th>Past and future activities of ULC UUPA Drafting Committee</th>
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<tr>
<td><strong>Initial Drafting Committee Meeting</strong></td>
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<td>The first meeting of the Drafting Committee was held in Washington, DC on February 21-22, 2014. Subsequent meetings were held in November 2014 and February 2015.</td>
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<td><strong>“First Reading” at ULC Annual Meeting, 2015</strong></td>
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<td>The first reading of the version of the draft Act that comes out of that meeting will be up for first reading at the Annual Meeting of the ULC to be held in early July, 2015 in Williamsburg, Virginia.</td>
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<td><strong>“Second Reading” at ULC Annual Meeting, 2016</strong></td>
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<td>Following that meeting, the Revised Draft will be edited to make changes suggested from the floor in preparation of a third meeting of the Drafting Committee to be held sometime in late 2015 or early 2016 in order to be ready for second (and likely final) reading in the summer of 2016 and approval by the ULC sitting as a committee of the whole.</td>
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<td><strong>Final Approval – Vote by State</strong></td>
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<td>Thereafter, it will be submitted to the ABA for approval and released to the States for introduction and enactment.</td>
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• THREATS TO OWNER RIGHTS:
  • Life Insurance Proceeds Reporting
• THREATS TO OWNER RIGHTS:
  • Business to business transaction exemption
• THREATS TO OWNER RIGHTS:
  • Derivative Rights Doctrine
THREATS TO OWNER RIGHTS:
• Eliminate Contingency Fee Examinations
THREATS TO OWNER RIGHTS:

• Assignment of Liability to a Third Party
THREATS TO OWNER RIGHTS:
Exempt Foreign Property and Other Types
ADDITIONAL ISSUES IDENTIFIED BY NAUPA:

- Administrative Appeals
- Aggregate and early reporting
- Electronic Due Diligence and Contact
2015 Annual Meeting

July 10-16, 2015
Williamsburg, Virginia
INFORMATIONAL OUTREACH:
State ULC Commissioners
Thank You for Your Involvement and Participation

- **NAUPA Uniform Unclaimed Property Act Revision Committee**
- **Carolyn Atkinson**, Esq., Deputy Treasurer of Unclaimed Property, West Virginia Treasury, Chairwoman, ULC Advisor
- **Hon. Beth Pearce**, Vermont State Treasurer, Vice Chairwoman, ULC Advisor
- **Vicki D. Bridgeman**, Director of Unclaimed Property, Virginia Treasury
- **Kelly Chambers**, Esq., Special Counsel, North Carolina Department of Justice
- **Ellen E. Coates**, Esq., Senior Assistant Attorney General, Virginia
- **Robert Commodore**, Senior Director, Consumer & Industry Services for the Minnesota Department of Commerce
- **John Gabriel**, Director of Unclaimed Property, Tennessee Treasury
- **Scott Gates**, Esq., General Counsel, Kansas Treasury and Director, Kansas Learning Quest Program
- **Walter Graham**, Chief of Unclaimed Property, Florida Department of Financial Services, Chairman
- **Dennis Johnston**, Administrator, Utah Treasury
- **Joshua Joyce, Esq.**, Administrator, Unclaimed Property, Arizona Department of Revenue
- **Gary Qualset CPA**, Division Chief, Unclaimed Property Division, California State Controller's Office
- **Hon. Don Stenberg**, Nebraska State Treasurer
- **Lynden Lyman**, NAUPA Special Counsel