

**CBA TRUST AND ESTATE SECTION
STATUTORY REVISIONS COMMITTEE
AGENDA**

November 16, 2017

- 1. Introductions**
- 2. Approval of October 19, 2017 Minutes**
- 3. Announcements**
- 4. SRC Approved Proposals**
 - a. Active Matters - Work to Finalize Required**
 - (i) Deposit of Original Documents Subcommittee (Timothy Bounds, Co-Chair, and Peter W. Bullard, Co-Chair)**
 - (ii) Public Administrator Subcommittee (Melissa R. Schwartz, Chair)**
 - (iii) UTC Subcommittee (Dennis N. Whitmer, Chair)**
 - b. Inactive Matters Approved by SRC but Not Moving Forward for Various Reasons**

None.
- 5. Legislative Report – Jeremy Schupbach**
- 6. Unapproved Matters under Consideration by SRC - Reports from Subcommittees**
 - a. Uniform Directed Trust Act Subcommittee (Kevin Millard, Co-Chair, and Kelly Cooper, Co-Chair)**
 - b. Legislation Review Joint Subcommittee (Michael D. Holder, Chair)**
 - c. Proposed Amendment to Comply with IRC 1.643(a)(3) (Eugene P. Zuspann, Chair)**

- d. **Advance Legislative Response Team (Spencer J. Crona, Chair)**
- e. **ADR Legislation (C. Jean Stewart, Chair)**

- 7. **Inactive Matters**
 - a. **Authorize Revisor to Publish Comments to Uniform Acts (Sonny Wiegand, Co-Chair, and Susan L. Boothby, Co-Chair)**

- 8. **Report from Elder Law Section – Arlene Barringer**

- 9. **Report from Other Sections of the Bar**

- 10. **New Matters**

- 11. **Passed Proposals for Inclusion in Omnibus Bill or Stand Alone Legislation**
 - a. **Bankruptcy/Inherited IRAs (approved in 2015-2016)**
 - b. **Changes to the Uniform Power of Appointment Act (approved in 2015-2016)**
 - c. **Disclosure of Fiduciary Fees, §§ 15-10-602 and 15-12-705, C.R.S. (approved in 2015-2016)**

**CBA TRUST AND ESTATE SECTION
STATUTORY REVISIONS COMMITTEE
MINUTES**

October 19, 2017

1. Welcome and Introduction

- Leia Ursery called the meeting of the Statutory Revisions Committee to order at 1:38 p.m. Members in attendance and on the phone introduced themselves.

2. Approval of Minutes

- The minutes from the September 14, 2017 of the Statutory Revisions Committee (“SRC”) were unanimously approved.

3. Announcements

- Leia Ursery asked all members that chair a committee or subcommittee to please notify Elizabeth Alakin if you do not need a meeting room on Super Thursday.
- Leia Ursery and Melissa Schwartz announced the young lawyer mentoring program. Leia circulated a sign-up sheet for members interested in mentoring young attorneys. Any attorneys interested in becoming a mentor should contact Melissa.
- Josie Faix announced that Trust & Estates Council Notes are looking for topics for upcoming issues.

4. SRC Approved Proposals

a. Deposit of Original Documents Subcommittee – Pete Bullard and Tim Bounds (Co-Chairs)

- Jeremy Schupbach had a meeting with representatives from the Secretary of State’s office and Judicial, and reported back to the subcommittee this morning. The Subcommittee will meet with representatives from SOS and Judicial in either November or December. SOS and Judicial have concerns about who can destroy original estate planning documents. Pete and Tim believe they can work out a solution with SOS and Judicial.

b. Public Administrator Subcommittee – (Melissa Schwartz - Chair)

- Melissa Schwartz reported to SRC regarding the recent audit of public administrators. The auditors prepared a memorandum with recommendations, and Melissa circulated a copy of the memo to SRC. The recommendations included recommendations on fees, especially administering small estates.

The State Court Administrators Office has proposed a form Public Administrator's report for small estates.

The audit memo also recommended implementing a system to track administration of cases in the public administrators office; the public administrators office and auditors are working on a solution. The audit also recommended an increase in public administrator's bond to \$100,000.00. The audit also recommended requiring deputy public administrators carry a bond, which will require a revision to the applicable statute. Other recommendations included publishing the list of estates of deceased owners on the Colorado Payback website.

The Probate Advisory Task Group is in charge of implementing the recommendations from the auditors. The first meeting of the PATG will be held on October 26, 2017. The meeting will discuss the JDF form for small estates and also a recommended standardized report form for public administrators. The group will also vote on proposed guidelines for public administrators at the October 26th meeting. The public administrator guidelines committee will promulgate proposed changes to statutes affected by the recommendations of the auditors. Melissa Schwartz noted that the public administrators are on board with the recommended statutory changes. If any members of SRC have questions or comments about the auditors memo, proposed statutory changes, etc., please direct them to Melissa Schwartz.

Leia Ursery asked Melissa how long it will take to implement the proposals and recommendations. Melissa said the proposed changes and recommendations will need preliminary approval from SRC. The Probate Task Advisory Group will vote on recommendations in December, so SRC will need to give approval before then.

There was some discussion about the procedure for implementing the changes. Melissa Schwartz believes the proposed changes will proceed through the Uniform Law Commission. SRC will review the recommendations and proposals and vote on them at the November meeting. There was also discussion from SRC members regarding how the proposed changes and recommendations will affect public administrators in rural areas.

c. UTC Subcommittee – (Darla Daniel, Co-Chair)

Darla updated SRC that the UTC subcommittee recently met to discuss conforming amendments in the Colorado Probate Code and other issues. The subcommittee will meet again next month to finalize conforming amendments.

5. Legislative Update – Jeremy Schupbach

There are currently 4 bills set for the upcoming legislative session; 2 of the bills will affect the Trust & Estates section of the bar, namely the Colorado Trust Code and the public administrators bill. It is possible that deposit of original estate planning documents and remote notary could be sent to the legislature during the upcoming session.

Jeremy reported that the legislature just finished a special session. Jeremy believes that with the special session just wrapping up and upcoming election cycle, there will not be much action in the legislature in the upcoming session. Jeremy noted that the focus will be on oil and gas legislation, and there will be no omnibus bill this year.

There was a discussion about the proposed Colorado Trust Code legislation and Jeremy said it will likely raise issues with other attorneys and legislators regarding specific provisions. Jeremy hopes that many of the issues and questions can be resolved at the committee level. Jeremy hopes to have Sen. Gardner and Reps. Gray and Wist as sponsors.

6. Unapproved Matters Under Consideration by SRC & Subcommittee Reports

a. Uniform Directed Trust Act – (Kelly Dickson Cooper, Co-Chair)

Kelly gave a report to SRC that the subcommittee is meeting from 9:00-10:30 a.m. on Super Thursday. The subcommittee is currently reviewing the provisions of the Act, and will continue reviewing.

b. Legislative Review Joint Subcommittee

No report

c. Proposed Amendment to Comply with IRC 1.643(a)(3) – (Eugene Zuspann, Chair)

Gene Zuspann gave a report to SRC. Gene reported that Arizona and New York were supposed to propose language last year, but did not; Gene is going to try to determine why. If we will not have an Omnibus bill this year, this issue would not be submitted independently.

d. Advance Legislative Response Team – (Spencer Crona)

Spencer Crona did not have a report, but stated the committee was preparing for the upcoming legislative session.

e. ADR Legislation – (Jean Stewart, Chair)

Jean Stewart's subcommittee meets during SRC. The subcommittee reported that the results from the subcommittee's survey are in and they are reviewing them.

7. Inactive Matters

a. Authorize Revisor to Publish Comments to Uniform Acts

Leia Ursery reiterated Cate Seal's comments from last month that comments will not be published. Jeremy Schupbach reported that the issue is on Uniform Law Commission's agenda this year.

b. HSA Funds Subcommittee – (Gordon Williams, Chair)

There was no report for the subcommittee this month.

8. Report from Elder Law Section – (Arlene Barringer, liaison)

There is a new Ethics opinion (no. 131) which addresses representing clients with diminished capacity. Darla Daniel presented on the proposed Colorado Trust Code. Elder Law will vote electronically on the CTC, and it is expected to be approved. Michael Song, who is a chief deputy district attorney in Denver, presented to the Section on elder exploitation.

There is a meeting on November 3, 2017 to review the proposed changes of the proposed Uniform Guardian and Protected Proceedings Act. Arlene Barringer said that several members of the Elder Law Section are planning to attend the meeting. Jeremy Schupbach added that the link to the approved version of the statute is available on Uniform Law Commission website. There was some discussion about when the proposed bill would be run; SRC is generally in agreement that the Trust & Estates Section should have more time to vet the proposed changes, but the bill may still run this upcoming legislative session. There was also some discussion about having a delayed effective date; Jeremy Schupbach said that is unlikely to happen.

9. Report from Other Sections

Georgine Kryda reported to SRC that the Tax Section voted to approve the proposed Colorado Trust Code.

10. New Matters

Jeremy Schupbach reported that the remote notary bill will go through the legislature this year, but the bill is not in final form yet. Letty Maxfield and Steve Brainerd have been reviewing the proposed bill to identify issues.

Leia Ursery adjourned the meeting at 2:26 p.m.

Respectfully submitted,
Tim Bounds