

MEMORANDUM

**TO: SHELLY D. MERRITT, CHAIR
STATUTORY REVISIONS COMMITTEE**

FROM: STANLEY C. KENT

DATE: MARCH 24, 2009

SUBJECT: UNIFORM ACTS

At the conclusion of the SRC meeting on March 19th, there was a suggestion that we begin including the schedule of Uniform Acts in SRC minutes.

What follows is a summary organized by status of various uniform acts.

NEW UNIFORM ACTS

Uniform Probate Code - 2008 Amendments. As you know, this act is designed to address four key issues, to-wit: (i) cost of living adjustments; (ii) recognition of notarized wills as an alternative to holographic and attested wills; (iii) amendments to the intestacy and class gift provisions to recognize children by artificial reproduction technology; and (iv) provisions governing formation of wills. This act also adds definitions to make the UPC consistent with use of electronic signatures and records. The act is already being considered by the legislature.

Uniform Principal and Income Act - 2008 Amendments. This act concerns technical amendments to the UPIA, sections 409 and 505. This act has been passed by the legislature and is on the way to the governor for signature.

Uniform Power of Attorney Act. This act has been approved by the legislature and is pending signature by the governor.

DRAFTING COMMITTEES

Insurable Interests Relating to Trusts. This act is being drafted to address concerns regarding the purchase of life insurance by trusts and trustees as it relates to insurable interest law. The impetus for this act was the decision in *Chawla v. Transamerica Occidental Life Insurance Co.*, 2005 WL 405 (E.D. V.A. 2005), aff'd in part, vac'd in part, 440 Fed.3d 639 (4th Cir. 2006). The purpose of this act will be to make clear that trusts and trustees of ILITs, in certain circumstances, do have insurable interests notwithstanding *Chawla*. This act is being drafted for incorporation into the UTC but may also be enacted as a stand alone measure.

Uniform Statutory Trust Entity Act. The business trust format is often used as an alternative

to other business entities such as corporations and limited liability companies. This is especially true in the case of mutual funds, ERISA pension funds, and various types of regulatory compliance trusts. This act will not apply to trusts used in estate planning. Note: The business law section is currently working on a Colorado act addressing business trusts. John DeBruyn has spoken frequently about this.

Real Property Transfer on Death Act. This committee is drafting an act that will permit real property to be transferred outside of probate upon death by beneficiary designation similar to current beneficiary designations now used on securities accounts. At least 8 other states, including Colorado, now have such statutes. These are being studied in connection with drafting of the uniform act.

STUDY COMMITTEE

Mental Health Advance Directives. This study committee has been formed to consider whether it is necessary to prepare a uniform act on mental health advance directives. Depending on the results of the study, a drafting committee may be formed.