

POTENTIAL RECOMMENDATIONS OF THE NORTH DAKOTA COMMISSION ON UNIFORM STATE LAWS - 2017 LEGISLATIVE SESSION

North Dakota Century Code Section 54-55-01 establishes the North Dakota Commission on Uniform State Laws, consisting of:

- An individual engaged in the practice of law in this state (Mr. Jacob Rodenbiker);
- The dean or a full-time member of the faculty of the University of North Dakota School of Law (Mr. Bradley Myers);
- A law-trained judge of a court of record in this state (District Judge Jerod Tufte);
- A member of the House of Representatives (Representative Lawrence R. Klemin);
- A member of the Senate of the Legislative Assembly (Senator David Hogue);
- A member of the Legislative Council staff (Mr. Timothy J. Dawson);
- Any residents of this state who, because of long service in the cause of uniformity of state legislation, have been elected life members of the National Conference of Commissioners on Uniform State Laws (Mr. Owen L. Anderson, Mr. Jay E. Buringrud, District Judge Gail Hagerty); and
- Any residents of this state who have been previously appointed to at least five years of service on the commission (Representative William E. Kretschmar, Mr. David Nething, Ms. Candace M. Zierdt).

Commissioners are required to attend the annual meeting of the National Conference of Commissioners on Uniform State Laws and to promote uniformity in state laws on those subjects where uniformity may be deemed desirable and practicable. Under Section 54-55-04, the commission may submit its recommendations for enactment of the uniform and model laws to the Legislative Management for its review and recommendation.

The commission meets during the annual meeting of the National Conference of Commissioners on Uniform State Laws and determines which uniform or model Acts to recommend to the next session of the Legislative Assembly.

As the result of its meeting on July 11, 2015, the commission is considering seven uniform Acts that may be appropriate for recommendation to the Legislative Management for introduction during the 2017 legislative session:

- Revised Athlete Agent Act. This Act was adopted in 2000 by the Uniform Law Commission and was adopted by this state in 2003. The Act has been adopted in 42 states. The revisions make numerous changes to the Act, including expanding the definition of "athlete agent" and "student athlete," providing for reciprocal registration between states; adding new requirements to the signing of an agency contract; and expanding notification requirements.
- Uniform Home Foreclosure Procedures Act. The Act was a result of the recent wave of residential foreclosure actions that exposed flaws in states where court systems were overwhelmed. This Act provides a balanced set of rules and procedures to standardize and streamline the foreclosure process. The Act protects homeowners by requiring adequate notice and documentation before a foreclosure action can proceed. The Act protects lenders by precluding contrary municipal ordinances and expediting foreclosure of abandoned properties. Finally, the Act includes rules for preforeclosure resolutions and negotiated transfers to encourage nonjudicial solutions.
- Uniform Commercial Real Estate Receivership Act. This Act relates to a court overseeing the orderly management and disposition of property subject to a lawsuit. The Act applies solely to commercial real estate.
- Revised Uniform Residential Landlord and Tenant Act. This Act was adopted in 1972 and revised in 1974 by the Uniform Law Commission. The Act includes new articles covering the disposition of tenant property, lease termination in case of domestic violence or sexual assault, and security deposits.
- Uniform Trust Decanting Act. Decanting is the distribution of assets from one trust into a second trust, like wine is decanted from a bottle to another vessel. Decanting is used to change the outdated terms of an otherwise irrevocable trust, but may be abused to defeat a settlor's intent. The Act provides a method of reforming an irrevocable trust document and limits decanting when it would defeat a charitable or tax-related purpose of the settlor.

- Uniform Recognition and Enforcement of Canadian Domestic Violence Protection Orders Act. The Act provides for the enforcement of domestic violence protection orders issued by Canadian courts. Canada provides similar recognition of these orders from the United States.
- Revised Uniform Fiduciary Access to Digital Assets Act. This Act clarifies the application of federal privacy laws and gives legal effect to an account holder's instruction for the disposition of digital assets, for example, a Facebook account. The Act was adopted in 2014 and revised in 2015. Both the original and revised Acts generally provide fiduciaries, for example, a personal representative, access to all digital information. The main change is that the revised Act protects the contents of electronic communications from disclosure without the user's consent.

Please note the commission has not made a decision as to recommendations for the next legislative session. Specific recommendations are scheduled to be made by the commission during its 2016 meeting.