

REPORT BY SECTION CHAIR TO MEMBERS CONCERNING THE PROPOSED ARIZONA TRUST CODE

Fellow Probate and Trust Law Section Members,

The Section's Executive Council voted at its May 2007 meeting to present to all Section members for review and comment proposed legislation to Arizona's trust law. The legislation would enact the "Arizona Trust Code" (the "ATC") and make other changes. The Council intends to consider the input from the Probate Section members, and vote on the issue of approving specific legislation to be recommended for enactment by the State Bar of Arizona Board of Governors.

As many of you are aware, the Arizona Uniform Trust Code (the "UTC") was repealed prior to its effective date, and it never became law. Although much of the UTC was not controversial, perceived important provisions were.

However, many (but not all) of the probate and trust law bar still believed that overhaul of Arizona's trust and certain related law was a good thing, including many who had advocated repeal of the UTC. Jim Ryan was appointed to chair the Arizona Trust Code Committee of the Probate Section, and he selected eight other members: Roger Curley, Gordon Waterfall, Al Olsen, John Vryhof, Tom Shumard, Tony Ehmann, Steve Phillips, and Steve Case. Their efforts were assembled in a report to the Executive Council, which, through its ATC Comment Committee, had meetings with Jim and received further comments, and recommended some further changes, which culminated with the Council's unanimous approval to disseminate the proposed legislation to its members.

The ATC is almost 100 pages. Therefore, rather than potentially burden the email of its members, the Executive Council is making the proposed legislation available on the Probate and Trust Law Section's website, along with a separate "Redline" showing how it compares with the repealed Arizona Uniform Trust Code. The form of the proposed legislation is not necessarily in the form that would be teed up as a formal bill prepared by legislative staff, but we believe it is sufficient for its purpose. For example, in some provisions, "subsections" are referred to as "paragraphs." Because there are provisions in the proposed legislation that do not correspond to the repealed UTC, the Redline would show no meaningful comparison with respect to such language. However, even though that would also be the case with respect to the proposed changes to the statutory rule against perpetuities, I have shown the changes from the existing statutes. The Executive Council intends that both the text and the Redline can be viewed, and if desired, downloaded. I also added an index to ARS Sections that would be changed or added under the legislation. Links are given where this letter is found to access these materials:

The Proposed ATC

Index of Arizona Revised Statutes Sections Changed or Added by the

The comparison of Repealed Arizona UTC to Proposed ATC

There are no comments to the proposed legislation by the Arizona Trust Code Committee or the Executive Council. However, we have for the moment good links to iterations of the Model UTC with comments prepared by the National Conference of Commissioners on Uniform State Laws, which links are:

For archive of NCCUSL versions:

<http://www.law.upenn.edu/bll/archives/ulc/ulc.htm#uta>

For last NCCUSL UTC version:

<http://www.law.upenn.edu/bll/archives/ulc/uta/2005final.htm>

(If either of these links does not work, please try right clicking it to copy to your web browser's address bar.)

The Council has asked that comments be presented by August 1, 2007, in advance of its first meeting of its new term. To make sure that responses are handled consistently, please send them to any of David Case, Greg Gadarian, or me by that date. My email address is: les.raatz@mwmf.com. If you have comments and you have the additional time, specific language can be very helpful.

Finally, the Executive Council wishes to thank the Arizona Trust Code Committee. This has been a time consuming task that has required the Committee members to give their time, energy, and minds in service to the Bar and improvement of the law.

Les Raatz,
Chair of the Probate and Trust Law Section
May 22, 2007