



UCITA Advisory Committee
Monday, August 1, 2011 10:00 a.m.
General Assembly Building, 4W Conference Room

- Call to Order & Introductions

The chairman of the advisory panel, Senator John Watkins, called the meeting to order. The members of the advisory panel introduced themselves.

- Overview of HB 2259

Staff provided an overview of the substantive details within HB 2259, as well as the procedural history of the bill.

Delegate Joe May introduced the bill during the 2011 Session of the General Assembly, and it was referred for further study to JCOTS by the House Committee on Science & Technology. The bill as drafted would amend the Uniform Computer Information Transactions Act (UCITA), which was adopted by the General Assembly after lengthy discussion in 2001. UCITA governs computer transactions as they pertain to software development and licensing. HB 2259 would create new definitions within UCITA, as well as make substantive additions to the Act, relating to liability issues within the realm of digital identity management. In particular, the bill would provide for legal immunities and limitations on liability for those entities that facilitate the verification of identity for on-line transactions.

- Overview of the Uniform Law Process

Connie Ring of the Virginia Uniform Law Commission provided a history and overview of the Uniform Law Process, focusing in particular on the history of UCITA as it was adopted in Virginia. Mr. Ring pointed out that the Uniform Law Commissioners generally discourage amendments to uniform acts. He noted that this particular amendment appears to fall outside the parameters of UCITA's original purpose, and may perhaps be more appropriate as a separate free-standing act.

UCITA itself has been adopted by two states, but has been used by four circuit courts to provide guidance for judicial decisions where there is no common law governing the specific technology subject matter. Also, Mr. Ring noted that, while there have been no decisions rendered at a level of court with written decisions, lower courts have applied and utilized its provisions.

- Discussion of HB 2259 (May)

Tom Reininger of FutureLaw provided background on the history and purpose underlying HB 2259.

The bill comes from discussions at a national level within the American Bar Association, which was asked to look at the legal issues in the area of federated identity management, as well as discussions involving the White House that resulted in the national strategy for trusted identities in cyberspace. The bill looks to the bigger picture of the digital network-based economy and the necessity for identifying people in on-line transactions. HB 2259 is not intended to be UCITA-specific.

The entities mentioned in the bill have a need to deal with identity management, and the ABA has identified a problem with the lack of codification anywhere regarding identification credentials, as well as the lack of codification regarding risk allocations and liability limitations surrounding identity credentials. UCITA was chosen as the vehicle for the bill because of the relatively easier process of amending existing law than crafting new language, especially if the issue is complicated.

The advisory panel discussed the need for the bill, paying particular attention to the liability issues pondered within HB 2259. The panel also discussed whether UCITA would be the proper vehicle for this policy.

Senator Watkins concluded the meeting by noting that the panel needs to consider more thoroughly the purpose of the bill. He asked staff to research and report to the panel on how the immunity and liability issues in the bill relate to current Virginia law. He also requested that the panel hear from at least one of the entities that would be affected by this legislation, as well as from the Secretary of Technology.

The next meeting for the UCITA Advisory Panel will occur on Wednesday, September 21, 2011, at 1:00 PM.