

Report on February 6-7, 2009 Meeting of
National Conference of Commissioners on Uniform State Laws
Drafting Committee on the Record Owners of Business Act

To: American Bar Association
From: Allan G. Donn, American Bar Association Advisor

A meeting of the Drafting Committee on the Record Owners of Business Act was held on February 6-7, 2009 in Washington, D.C.. The meeting was convened by Harry J. Haynsworth, Chair, and William H. Clark, Jr., served as the Reporter. In addition to the members of the Drafting Committee, participants included three representatives of the Treasury Department, Elaine Marshall of the National Association of Secretaries of State, Tim Poulin of IACC, and other advisors and observers.

The purpose of the meeting was to review and discuss the January 2009 Interim Draft of the Record Owners of Business Act, tentatively renamed the Uniform Access to Entity Information Act.

The draft reflected a fundamental revision of format, changing from amendments to the uniform unincorporated entity statutes to a single act that would apply to all of the unincorporated entity statutes and corporations, in the manner of the Model Registered Agents Act.

Before the meeting, the fundamental difference between the NCCUSL draft and the Levin bill was that the former was based upon record ownership of a filing entity and the latter was based upon ultimate beneficial ownership and control.

The meeting resulted in a consensus for a bill that would provide public filing of a Records Contact who would have access to record ownership information of a filing entity and the filing with the Secretary of State of the non-public, confidential identification of a "designated individual" who directly or indirectly participates in the control or management of the entity.

At the conclusion of the meeting, the Treasury representatives confirmed that although they could not bind the government, they would recommend to their superiors approval of the approach taken.

Because of the substantial revisions of the draft that will be required, the Reporter was directed to prepare a revised draft that would be the subject of conference calls to include the members of the committee, advisors, and interested observers. The Chairman anticipates that a revised draft will be approved by the Drafting Committee in sufficient time to be disseminated before the April meeting of the ABA Business Law Section.