



# Legislative Council Staff

## Research Note

Version: Final

Date: 6/17/2016

### Bill Number

**Senate Bill 16-088**

### Sponsors

**Senator Steadman**  
**Representative Willett**

### Short Title

**Revised Uniform Fiduciary**  
**Access To Digital Assets**

### Research Analyst

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### Status

This research note reflects the final version of the bill, which was signed by the Governor on April 7, 2016, and becomes effective on August 10, 2016, assuming no referendum petition is filed.

### Summary

This bill, recommended by the Colorado Commission on Uniform State Laws, sets forth the conditions under which certain fiduciaries may access:

- the content of an electronic communication of a principal or decedent;
- a catalog of electronic communications sent or received by a principal or decedent; and
- any other digital asset in which a principal has a right or interest or in which a decedent had a right or interest at death.

As to tangible personal property capable of receiving, storing, processing, or sending a digital asset, a fiduciary with authority over the property of a decedent, protected person, principal, or settlor may access the property and any digital asset stored in it and is an authorized user for purposes of computer fraud and unauthorized computer access laws. A fiduciary and its officers, employees, and agents are immune from liability for an act or omission done in good-faith compliance with the provisions of the bill.

### Background

Fiduciaries are responsible for holding and managing property or assets for the benefit of another person, usually called a beneficiary. Examples of fiduciaries include personal

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representatives of deceased persons' estates, conservators of protected persons' property, and trustees. Generally, fiduciaries have a duty to work in the best interest of the beneficiary.

The Colorado Commission on Uniform State Laws is charged with working with the national Uniform Law Commission (ULC) to promote uniformity in state laws where uniformity may be deemed desirable and practicable. The Office of Legislative Legal Services provides assistance to the legislative members of the Colorado Commission in their efforts to enact legislation regarding uniform acts. According to the ULC, the Revised Uniform Fiduciary Access To Digital Assets Act has been enacted in 16 states, including Colorado, and has been introduced in an additional 15 states.

## Senate Action

**Senate Judiciary Committee (February 16, 2016).** The committee heard testimony in favor of the bill from a representative of the ULC. The committee adopted amendments L.001 and L.002, and referred the bill, as amended, to the Senate Committee of the Whole.

Amendment L.001 allows domiciliary foreign personal representatives and foreign conservators to obtain digital assets under the act without complying with certain other statutory requirements for such personal representatives or conservators. Amendment L.002 permits a user to designate a recipient for receipt of digital assets.

**Senate second reading (February 19, 2016).** The Senate Committee of the Whole adopted the Senate Judiciary Committee report and passed the bill, as amended, on second reading.

**Senate third reading (February 22, 2016).** The Senate adopted the bill on third reading.

## House Action

**House Judiciary Committee (March 8, 2016).** At the hearing, a representative of the ULC testified in support of the bill, and the committee referred the bill, unamended, to the House Committee of the Whole.

**House second reading (March 10, 2016).** The House Committee of the Whole passed the bill on second reading.

**House third reading (March 11, 2016).** The House adopted the bill on third reading.

## Relevant Research

Colorado Legislative Council Staff, *Colorado Probate Law*, Issue Brief, April 2016: <http://tinyurl.com/zxyk3n2> (pdf).