



WHY YOUR STATE SHOULD ADOPT THE UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT

The Uniform Fiduciary Access to Digital Assets Act (UFADAA) modernizes fiduciary law for the Internet age. Nearly everyone today has digital assets, such as documents, photographs, email, and social media accounts. Digital assets may have real value, both monetary and sentimental. However, Internet service agreements, passwords that can be reset only through the account holder's email, and federal and state privacy laws that do not contemplate the account holder's death or incapacity may prevent fiduciaries from gaining access to these valuable assets. UFADAA solves the problem by ensuring that legally appointed fiduciaries can access, delete, preserve, and pass along digital assets as appropriate.

- ***UFADAA gives account holders control.*** UFADAA allows account holders to specify whether their digital assets should be preserved, distributed to heirs, or destroyed.
- ***UFADAA treats digital assets like all other assets.*** If a fiduciary has the legal authority to inventory and dispose of all of a person's documents, it should not matter whether those documents are printed on paper, stored on a personal computer, or stored in the cloud. UFADAA provides a fiduciary with access to both tangible and digital property.
- ***UFADAA provides rules for four common types of fiduciaries.*** The executor of a decedent's estate may have responsibilities altogether different from those of an agent under a living person's power of attorney. UFADAA provides appropriate default rules governing access for executors, agents, conservators, and trustees.
- ***UFADAA protects custodians and copyright holders.*** Under UFADAA, fiduciaries must provide proof of their authority in the form of a certified document. Custodians of digital assets that comply with a fiduciary's apparently authorized request for access are immune from any liability. A fiduciary's authority over digital assets is limited by federal law, including the Copyright Act and the Electronic Communications Privacy Act.
- ***UFADAA provides efficient uniformity for all concerned.*** Digital assets travel across state lines nearly instantaneously. In our mobile society, people move more often than ever. Because state law governs fiduciaries, a uniform law ensures that, regardless of the state, fiduciaries will have equal access and custodians will benefit from uniform regulation.

For further information about UFADAA, please contact ULC Legislative Counsel Benjamin Orzeske at 312-450-6621 or borzeske@uniformlaws.org.