

JOIN THE CLUB: ESTATE PLANNING FOR COUNTRY CLUB MEMBERSHIPS AND SEASON TICKETS

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ABSTRACT

People generally expect to pass property interests in country club memberships and season tickets to their descendants. Whether season tickets and equity memberships are transferable is usually up to the organization. Organizations differ widely in the limitations they place on the transfer of season tickets and country club memberships. This is due, in large part, to the lack of state law expressly governing this type of transfer. Estate planning in this area can be difficult because many organizations severely limit transferability. Attorneys can help their clients manage the transfer of season tickets and country club memberships by understanding how the law characterizes each, what questions to ask clients, and what to look for in an organization's bylaws or season ticket policy.

Many season ticket holders expect to transfer their ownership interest at some point. Holding season tickets creates a reasonable expectation that those tickets may descend within the family. The Uniform Law Commission should draft legislation overriding any language in a season ticket agreement denying transfer between immediate family members because, when there is a reasonable expectation that property should descend within the family, there are inherent limits on the restrictions that may be placed on those property interests.

The statutory language proposed by this Article protects the property interests of season ticket holders by allowing them to transfer their interests within the family, if the organization does not already allow it. The proposed statutory language accomplishes this by expressly overriding terms in a season ticket agreement that bar transfer at death, treat season tickets as a revocable license, or limit transfer to anything less than immediate family members. The proposed statute does not require organizations to amend their season ticket agreements, and organizations remain free to offer greater transfer freedom than the minimum established by the statute. In short, the proposed statutory language protects the property interests of season ticket

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holders without overburdening the organization offering the tickets. Regarding season tickets, the proposed uniform act applies to professional and collegiate athletics.

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I. INTRODUCTION

John Jr. is a well-established pediatrician who loves golf and cheering for his alma mater's football team.¹ John Jr. is an equity member at a local country club and has attended nearly every home football game, often with his wife, children, and father, John Sr., for as long as he can remember.² John Sr. has held the same season tickets for over two decades.³ John Sr.'s father, James, was given the season tickets by the university for helping build the stadium more than thirty years ago.⁴ James eventually transferred his season tickets to John Sr., who still has them today.⁵ At the time of the transfer from James to John Sr., the university placed few restrictions on the transfer of season tickets between family members.⁶ Due to growing pressure from donors seeking season tickets of their own, the university no longer allows season ticket holders to transfer their season tickets to relatives.⁷ All season tickets revert to the university when a season ticket holder dies, fails to renew, or violates the no-transfer policy.⁸

As long as John Sr. continues to renew his season tickets, the no-transfer policy is not a problem.⁹ Unfortunately, he is no longer attending games due to his declining health.¹⁰ His son, John Jr., is unsure whether he and his now-adult children can continue attending games after their grandfather dies.¹¹ Thinking about his father's declining health also has John Jr. wondering whether someday he can transfer his equity membership at the country club to one of his adult children.¹²

Equity membership at the local country club and season tickets for favorite sports teams often take time and hard work to obtain.¹³ People

1. Author's original hypothetical.

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. See, e.g., Alicia Jessop, *A Long Waiting List for Season Tickets Drives Alabama Football to Use Technology to Get Young Fans Into the Stadium*, FORBES (Jan. 1, 2015, 3:05 PM), <https://www.forbes.com/sites/aliciajessop/2015/01/01/a-long-waiting-list-for-season-tickets-drives-alabama-football-to-use-technology-to-get-young-fans-into-the-stadium/> ("Ahead of the 2014 season, Alabama's waiting list for season tickets exceeded 32,000, with one-half of 1-percent coming off of the wait list annually.") [<https://perma.cc/7AUS-LWKD>]; *Ticket Waitlist Program Announced*, DUKE MEN'S BASKETBALL (Sept. 29, 2021, 11:00 AM), <https://goduke.com/news/2021/9/29/mens-basketball-ticket-waitlist-program-announced> (discussing that there is now a waitlist for single game tickets) [<https://perma.cc/NZ62-A4B8>]; *Private Club Waitlists: Five Tips to Manage the Process for your Real Estate Buyer*, GOLF LIFE

generally expect to pass property interests in club memberships and season tickets to their descendants.¹⁴ Estate planning in this area can be difficult because many organizations severely limit transferability.¹⁵ Whether season tickets and equity memberships are transferable is usually up to the organization.¹⁶ No state has adopted legislation placing limits on a country club's ability to restrict the transfer of a club membership, and only one state has adopted legislation limiting a sports organization's ability to restrict the transfer of season tickets.¹⁷ Some states have precedent regarding when season tickets may or may not be transferable.¹⁸ Few states have clear precedent regarding when courts will intervene to make club memberships transferable.¹⁹

Organizations differ widely in the limitations they place on the transfer of season tickets.²⁰ This is due, in part, to the lack of state laws expressly governing the transfer.²¹ The lack of uniformity makes estate planning difficult to anticipate, but more importantly, season tickets create a reasonable expectation that tickets are transferable.²² Allowing season ticket holders to transfer season tickets within the family protects their property interests.²³ The Uniform Law Commission (ULC) should draft legislation

NAVIGATORS, <https://golflifefanavigators.com/private-club-waitlists/> (last visited Jan. 25, 2024) (“[T]he national average for a private club membership is \$40,000. Of those clubs, 44% have . . . a waitlist”) [<https://perma.cc/W5KY-EAWV>]; Alec Pow, *How Much Does a Congressional Country Club Membership Cost*, THEPRICER, <https://www.thepricer.org/congressional-country-club-membership-cost/> (Oct. 26, 2023) (stating a ten year waitlist and initiation fee of at least \$100,000) [<https://perma.cc/7LDU-3D45>].

14. See Danette R. Davis, *The Myth & Mystery of Personal Seat Licenses and Season Tickets: Licenses or More?*, 51 ST. LOUIS L. J. 241, 256–57 (2006).

15. See, e.g., *Season Ticket Transfer Policy*, OR. ST. ATHLETICS, <https://osubeavers.com/sports/2020/1/13/season-ticket-transfer-policy.aspx> (last visited Jan. 25, 2024) (explaining transfer is limited to a spouse or child, and only if the season ticket holder is deceased) [<https://perma.cc/AE9S-ZYZQ?type=image>].

16. See, e.g., *Dunkelman v. Cin. Bengals*, 866 N.E.2d 576, 581 (Ohio Ct. App. 2006) (holding transferability depends on the language used in the agreement between parties).

17. See COLO. REV. STAT ANN. § 6-1-718(3)(a)–(b) (West 2008) (voiding terms or conditions that restrict resale of season tickets but allowing organizations to restrict the sale of renewal rights).

18. See, e.g., *In re I.D. Craig Serv. Corp.*, 138 B.R. 490, 494 (Bankr. W.D. Pa. 1992) (“[T]he conclusion does not follow that, because each single ticket is a revocable license, [the team] can either deny [a season ticket holder’s] request to transfer his season ticket holder status or refuse to recognize that status in his transferees.”); *In re Liebman*, 208 B.R. 38, 40 (Bankr. N.D. Ill. 1997) (stating no property interest in season tickets and nontransferable when right to renew was revocable).

19. See *Hamlet Country Club v. Allen*, 622 So. 2d 1081, 1082 (Fla. Dist. Ct. App. 1993).

20. Compare *Tampa Bay Lightning Season Ticket Member Terms and Conditions and Arbitration Agreement*, TAMPA BAY LIGHTNING, 1, 2 (Feb. 20, 2023), https://media.d3.nhle.com/image/private/t_document/prd/zugp4nwsnz3tu3e3pwta.pdf (describing how transfers are limited to immediate family members) [<https://perma.cc/62H9-PBLJ>], with *Football Season Ticket Transfer*, U. OF MICH., <https://mgo.blue.com/sports/2017/6/16/tickets-transfer-football> (last visited Jan. 25, 2024) (stating that transfers can be made to any individual age eighteen or older) [<https://perma.cc/MEP2-ZKJ9?type=image>].

21. See *About Us*, UNIF. L. COMM’N, <https://my.uniformlaws.org/aboutulc/overview> (last visited Jan. 25, 2024) [<https://perma.cc/TP7Z-Y92M>].

22. See David Horton, *Indescendibility*, 102 CALIF. L. REV. 543, 567 (2014).

23. *Id.*

overriding any language in a season ticket agreement denying transfer between immediate family members because, when there is a reasonable expectation that property should descend within the family, there are inherent limits on the restrictions that may be placed on those property interests.²⁴

This Article argues there are limits to the restrictions organizations may place on property interests in season tickets and club memberships and proposes statutory language that state legislatures may adopt to prevent organizations from placing excessive or inappropriate limits on the transfer of season tickets.²⁵ This Article is the first to fully address transfer of equity membership in the estate planning context and differs from previous articles by taking a closer look at season tickets in the university setting.²⁶

Part II of this Article examines how the law treats season tickets and country club memberships in various states, including how these property interests may be handled differently in community property states.²⁷ Part III proposes statutory language that resolves issues of unpredictability in season ticket transfers and argues why states and the ULC should consider adopting the proposed language.²⁸ Finally, Part IV returns to the opening hypothetical and a few variations of it to demonstrate the merits of the proposed statute.²⁹

II. HOW THE LAW TREATS SEASON TICKETS AND COUNTRY CLUB MEMBERSHIPS

States are split on the issue of how the law should treat season tickets—whether they are merely a revocable license or something more.³⁰ Transfer policies of organizations are typically found in season ticket agreements between the organization and its season ticket holders, which are generally governed by state law.³¹ Few states have legislation specifically governing season ticket agreements.³² Some states have the benefit of case law making this area of estate planning slightly more predictable.³³ Season ticket holders in the few states that do have relevant legislation or precedent on the matter still face a great deal of uncertainty regarding how they can

24. See discussion *infra* Section III.A.

25. See discussion *infra* Section III.A.

26. See discussion *infra* Section II.B; see discussion *infra* Section II.E.

27. See discussion *infra* Part II.

28. See discussion *infra* Part III.

29. See discussion *infra* Part IV.

30. See Davis, *supra* note 14, at 247–50.

31. See, e.g., *Tampa Bay Lightning Season Ticket Member Terms and Conditions and Arbitration Agreement*, *supra* note 20, at 13.

32. See, e.g., COLO. REV. STAT ANN. § 6-1-718(3)(a)–(b) (West 2008) (voiding terms or conditions that restrict resale of season tickets but allowing organizations to restrict the sale of renewal rights).

33. See, e.g., *In re I.D. Craig Serv. Corp.*, 138 B.R. 490, 494 (Bankr. W.D. Pa. 1992); *Frager v. Indianapolis Colts, Inc.*, 860 F.3d 583, 584 (7th Cir. 2017).

transfer tickets, to whom they can transfer them, or if they can transfer them at all.³⁴

Whether an equity membership in a country club is transferable depends primarily on the founding documents and bylaws of the club.³⁵ Like season tickets, these agreements are generally governed by state law.³⁶ Most states allow clubs considerable freedom to govern their relationships with members.³⁷ There are virtually no state statutes dealing specifically with the transfer of equity memberships.³⁸ Regarding the rules of transfer, there seems to be no more uniformity among country clubs than sports teams.³⁹

A. Season Tickets

Season tickets are the most common means of attending popular sporting events.⁴⁰ Many organizations now use personal seat licenses, which allow entrance to the venue and may give the purchaser the right to transfer or renew.⁴¹ Personal seat licenses are considered personal property.⁴² They are used by both collegiate and professional organizations.⁴³ Whether or not an organization offers personal seat licenses, the concept of owning season tickets is the same.⁴⁴

34. *Kully v. Goldman*, 305 N.W.2d 800, 802 (Neb. 1981) (“[Being] on the list of annual purchasers, [made the] prospect of obtaining the same seats and the same number of seats each year. . . good. It was not, however, a property right.”).

35. *See Orchard Ridge Country Club, Inc. v. Schrey*, 479 N.E.2d 780, 783 (Ind. Ct. App. 1984).

36. *See In re Axvig*, 68 B.R. 910, 915 (Bankr. D.N.D. 1987).

37. *See Orchard Ridge Country Club, Inc.*, 470 N.E.2d at 783.

38. *See supra* text accompanying note 17.

39. *See discussion supra* Part I.

40. *See, e.g.*, Pat Evans, *Season Ticket Sales Change but They Remain Backbone of Attendance*, FRONT OFF. SPORTS (Apr. 28, 2009, 10:14 PM), <https://frontofficesports.com/season-baseball-tix-sxsw/> (stating that 85% of NFL ticket sales are season packages) [<https://perma.cc/NV5E-Z5TQ>]; Eric Olson, *Seniority, Generosity May Decide Who Enters College Stadiums*, ASSOCIATED PRESS (June 9, 2020, 2:23 PM), <https://apnews.com/article/19a8d58f7d8f0ffd6be47d7397f2dd64> (describing that for the 2020 football season, the University of Nebraska had 93% season ticket renewal, the University of Alabama had 90%, and Ohio State University 88%) [<https://perma.cc/2TPH-4QVC>].

41. 27A AM. JUR. 2D *Entertainment and Sports Law* § 43 (2021); *see* Mark Levengood, *Unregistered Securities in the National Football League: Can the Securities Act of 1933 Protect Season Ticket Holders and Personal Seat License Holders?*, 11 VILL. SPORTS & ENT. L. J. 411, 415 (2004).

42. 27A AM. JUR. 2D *Entertainment and Sports Law* § 43 (2021); *Rayle v. Bowling Green State Univ.*, 739 N.E.2d 1260, 1262 (Ct. of Cl. 2000) (“[T]he contract between the parties is a personal seat license. A personal seat license constitutes personal property . . .”) (internal quotation marks omitted).

43. James T. Reese et al., *National Football League Ticket Transfer Policies: Legal and Policy Issues*, 14 J. LEGAL ASPECTS SPORT 163, 174 (2004).

44. *See discussion infra* Section III.B.

1. Patterns Among States and Organizations Regarding Property Interests in Season Tickets

Property interests in season tickets are treated differently in various states.⁴⁵ Some states generally consider season tickets personal property.⁴⁶ Other states consider them a revocable license.⁴⁷ In several states, courts have determined whether season tickets represent a property interest or a license based on the terms of the season ticket agreement.⁴⁸ Case law provides some predictability in the states that have any case law but only to fans who find themselves in nearly identical situations.⁴⁹

Many organizations provide a season ticket holder the opportunity to renew season ticket agreements.⁵⁰ Some organizations automatically renew season ticket agreements while others do not.⁵¹ Whether renewal is automatic or not, organizations often set renewal payment deadlines after which unrenewed season tickets revert to the organization.⁵² In Indiana, for example, season tickets that look more like a season pass are not considered personal property because the organization does not offer an automatic right to renew the tickets.⁵³

45. See Davis, *supra* note 14, at 253–54.

46. See, e.g., *Marinik v. Cascade Grp.*, 724 N.E.2d 877, 880 (M.C. 1999); *In re I.D. Craig Serv. Corp.*, 138 B.R. 490, 492 (Bankr. W.D. Pa. 1992).

47. See, e.g., *Soderholm v. Chi. Nat. League Ball Club*, 225 587 N.E.2d 517, 520 (1992).

48. See Davis, *supra* note 14, at 251–52. (“[C]ourts are finding property interests in PSLs which are greater than the interests common to a license.”).

49. See, e.g., *Charpentier v. L.A. Rams Football Co.*, 75 Cal. App. 4th 301, 310–11 (1999) (stating when the court looked at another case when a team moved to a new venue but came to the opposite conclusion).

50. See, e.g., *Subscriptions & Packages*, DALL. SYMPHONY ORCHESTRA, <https://www.dallassymphony.org/subscriptions-and-packages/> (last visited Sep. 9, 2024) [<https://perma.cc/J8XB-L9NH>].

51. See, e.g., *Tampa Bay Lightning Season Ticket Member Terms and Conditions and Arbitration Agreement*, *supra* note 20 (“This agreement renews automatically unless you cancel.”); but see, e.g., *Season Ticket Terms and Conditions*, PITTSBURGH PIRATES 1, 2, <https://mktg.mlbstatic.com/pirates/files/sth-holders-terms.pdf> (last visited Jan. 25, 2024) (“Season ticket plans are offered on a single-season basis only. The purchase of season tickets for the current season does not entitle Account Holder to purchase season tickets or to have tickets for a particular seat or seating area in any subsequent [year] . . .” “Account Holder agrees that if after the conclusion of a season, the Pirates choose to offer Account Holder the opportunity to purchase season tickets for a subsequent season, this Agreement is subject to automatic renewal.”) [<https://perma.cc/52HU-ET64>].

52. See, e.g., *Season Ticket Holder Handbook*, GREEN BAY PACKERS 1, 2 (2021), <https://static.clubs.nfl.com/image/upload/packers/gopkx2zxvephfe2rzm7b.pdf> [<https://perma.cc/K7G2-T8PS>]; see *Football Ticket Information*, U. OF ALA., <https://rolltide.com/sports/2016/6/10/tickets-m-footbl-html.aspx?id=9> (last visited Jan. 25, 2024) [<https://perma.cc/X7JF-CYHU?type=image>]; Jay Drew, *BYU Football Season Ticket Renewals Holding Steady, Despite Fears Coronavirus Pandemic Could Shorten or Cancel 2020 Season*, DESERET NEWS (May 1, 2020, 2:10 PM), <https://www.deseret.com/sports/2020/5/1/21243470/> (stating fans renewed season tickets even if they thought games would not be played that year because they did not want to lose their seats) [<https://perma.cc/EL96-5E35>].

53. See *Frager v. Indianapolis Colts, Inc.*, 860 F.3d 583, 584 (7th Cir. 2017) (noting that season tickets were revocable when the season ticket agreement stated, “[T]he Colts reserve the right . . . to reject any order, transfer, or renewal.”).

Courts are less likely to find a revocable license when the organization's policies are ambiguous or if the organization fails to consistently enforce its policies.⁵⁴ Even when:

[a] team structures the contract as a license, courts have begun to look beyond the contract terms to the policies of the teams to find these property rights. In addition to contract terms and team policies, these courts find weight in the intangible expectation of renewal created by season ticket holder status.⁵⁵

The more flexibility a season ticket holder has to transfer season tickets, the more their rights to renew become a complete property interest.⁵⁶

There seems to be no deliberate difference between the way community property and common law property states treat season tickets.⁵⁷ For example, Washington and Arizona, both community property states, reached opposite conclusions about property interests in season tickets under somewhat similar circumstances.⁵⁸ There is a similar division among common law property states.⁵⁹ At the same time, community property states and common law property states have arrived at some of the same conclusions regarding property interests in season tickets.⁶⁰ The case law is highly fact-specific, making when a state determines the type of property interests a holder has in season tickets seem almost arbitrary, which is all the more reason for uniform legislation.⁶¹

54. See Reese, *supra* note 43, at 167; see, e.g., *In re Platt*, 292 B.R. 12, 17 (Bankr. D. Mass. 2003) ("Despite the Red Sox misplaced reliance on the non-transferability language contained in the Season Ticket Subscription Agreement and invoice, the practice of automatically renewing season tickets coupled with the pattern of arbitrarily and even capriciously permitting transfers creates a property right in the season ticket holder.").

55. Davis, *supra* note 14, at 251.

56. *Id.* at 255.

57. See discussion *infra* Part IV (However, this does not mean that how tickets are transferred at death is the same in community property states.).

58. Compare *Brotherson v. Prof. Basketball Club, L.L.C.*, 604 F. Supp. 2d 1276, 1290 (W.D. Wash. 2009) (holding that although the season ticket agreement is a license, season ticket holders had a right to renew that could not be revoked at will), with *In re Harrell*, 73 F.3d 218, 219–20 (9th Cir. 1996) (holding that the opportunity to renew season tickets is not a property right under Arizona law and season ticket holders are powerless to stop the organization from declining to extend the offer to renew).

59. Compare *Marinik v. Cascade Grp.*, 724 N.E.2d 877, 880 (M.C. 1999) (stating season tickets are personal property, an expectancy interest in renewal rights, and more than a mere license), with *Soderholm v. Chi. Nat. League Ball Club*, 587 N.E.2d 517, 520–21 (1992) (stating season ticket holder had no right to renew, no option contract, no right of first refusal, and no lease, only a revocable license).

60. Compare *Oshinsky v. N.Y. Football Giants, Inc.*, No. 09-cv-1186 (PGS), 2009 U.S. Dist. LEXIS 107608, at *17 (Dist. N.J. Nov. 17, 2009) (holding that season ticket holder had an implied right to renew), with *Brotherson*, 604 F. Supp. 2d at 1290 (holding that season ticket holders' right to renew was created by written agreement).

61. See discussion *infra* Part III.

2. Patterns Among Organizations Regarding Season Ticket Transfer Policies

Some organizations lack concrete or predictable rules for passing on season tickets.⁶² Many organizations limit transfer to a spouse and close relatives.⁶³ And some organizations do not allow season ticket holders to transfer tickets to a company.⁶⁴ In collegiate athletics if a transfer is made outside the family some organizations require the transferee to match the season ticket holder's annual donations.⁶⁵ Some organizations even have special transfer rules in case of divorce.⁶⁶ Many organizations handle transfers on a case-by-case basis.⁶⁷ Some organizations do not allow transfers at all.⁶⁸

The ability to transfer season tickets varies by sport and by league, but mostly by team; the differences seem to have less to do with whether teams are professional or collegiate and more to do with the team's popularity and their fanbase's devotion.⁶⁹ Generally, the most popular teams have the greatest demand for season tickets and are more likely to have waitlists.⁷⁰ A popular team is not necessarily a good team.⁷¹ Notwithstanding, the donor

62. See, e.g., *Season Ticket FAQs*, PHILA. PHILLIES, <https://www.mlb.com/phillies/tickets/season-tickets/faqs> (last visited Jan. 25, 2024) ("The transfer of season tickets into a different name is at the sole discretion of the Phillies.") [<https://perma.cc/LZL9-URQQ>]; see also *2022 Phillies Season Ticket License Terms & Conditions*, PHILA. PHILLIES, <https://www.mlb.com/phillies/tickets/season-tickets/terms-and-conditions> (last visited Jan. 25, 2024) ("The opportunity to renew single year season ticket plans is on a year-to-year basis as determined in the sole discretion of the Club . . .") [<https://perma.cc/X85K-ANCJ>].

63. See, e.g., *Tampa Bay Lightning Season Ticket Member Terms and Conditions and Arbitration Agreement*, *supra* note 20 ("Account transfers are limited to an 'Immediate Family Member' (defined hereunder as a spouse, father, mother, son, or daughter).")

64. See, e.g., *Football Season Ticket Transfer*, *supra* note 20 ("Season tickets can only be transferred to individuals; not to businesses or organizations.")

65. See, e.g., *Season Ticket Transfer Policy*, WIS. ATHLETIC DEP'T, https://uwbadgers.com/sports/2015/08/21/GEN_20140101233.aspx (last visited Jan. 25, 2024) [<https://perma.cc/L7AF-P44D>].

66. See, e.g., *Season Ticket Holder Policies*, GREEN BAY PACKERS, <https://www.packers.com/tickets/season-ticket-holder-policies> (last visited Jan. 25, 2024) ("Upon divorce or separation, we will honor a stipulation authorizing retention or transfer of tickets to one or both of the parties. Without stipulation or agreement, the tickets shall revert to the Green Bay Packers who shall have the right to divide the tickets between the parties.") [<https://perma.cc/5LJX-83CB>]; see also *Tampa Bay Lightning Season Ticket Member Terms and Conditions and Arbitration Agreement*, *supra* note 20, at 1–2 (using nearly identical wording).

67. See, e.g., *Ticket Policies/Information*, BOWLING GREEN ST. U., <https://bgsufalcons.com/sports/2019/4/23/Ticket-policies-information.aspx> (last visited Jan. 25, 2024) [<https://perma.cc/8Z96-ZZZE?type=image>].

68. See, e.g., *Lavell Edwards Stadium, Info and Policies, Ticket Policies*, BYU, <https://tickets.byu.edu/lavell-edwards-stadium> (last visited Jan. 25, 2024) [<https://perma.cc/3485-AUN4>].

69. Author's original thought.

70. Richard Rayman, *Some Packers fans have waited almost 50 years for season tickets. That wait is now over*, USA TODAY (May 20, 2022, 10:10 AM), <https://www.usatoday.com/story/sports/nfl/packers/2022/05/20/packers-season-tickets-fans-50-year-wait/9853572002/> [<https://perma.cc/4KLH-9UP6>].

71. See, e.g., Dan McGlynn, *Husker Dan: Frost's Year Four*, SPORTS ILLUSTRATED (Aug. 24, 2021, 3:11 PM), <https://www.si.com/college/nebraska/football/husker-dan-frosts-year-four-the-perfect-season> (the University of Nebraska football team has seen better days) [<https://perma.cc/ZN5M-29JV>]; Brad

ranking system tied to college athletics is certainly distinguishable from anything in professional athletics.⁷²

3. University Athletics and Donor Ranking Systems

The transfer policies of most universities are shaped by demand for season tickets.⁷³ With high rates of season ticket renewal and large waitlists, there is an incentive to implement strict transfer policies, if transfer is allowed at all, so that tickets revert to the university and can be given to the next eligible donor.⁷⁴ Numerous universities use a point system to determine which donors receive season tickets and how good those seats will be.⁷⁵ Many universities attach both a fee and a right to purchase season tickets to certain seats.⁷⁶ To have the opportunity to pay the seat fee, the fan must make it to the top of the university's point list.⁷⁷ Points are generally based on how much the fan has donated and for how long they have made donations.⁷⁸

This system was encouraged in part by previous tax laws allowing taxpayers to count eighty percent of donations given to a university in exchange for the right to purchase season tickets as charitable contributions.⁷⁹ Section 170(l) of the Internal Revenue Code was amended by the Tax Cuts and Jobs Act of 2017 to disallow Section 170 charitable deductions for amounts paid to or for the benefit of an institution of higher learning in exchange for the right to buy season tickets.⁸⁰ Nevertheless, the connection between university donor ranking systems and season tickets remains.⁸¹

Crawford, *College Football's Home Attendance Leaders in 2019*, 247 SPORTS (Jan. 21, 2020, 7:24 AM), <https://247sports.com/longformarticle/college-football-home-attendance-leaders-2019-michigan-penn-state-ohio-state-alabama-lsu-tennessee-141129487/#1345944> (Nebraska attendance ranks ninth nationally) [<https://perma.cc/TVAP-72SL>]; Olson, *supra* note 40 (Nebraska season ticket renewal remains above 90%).

72. See discussion *infra* Section II.A.3.

73. See, e.g., *Ticket Waitlist Program Announced*, *supra* note 13.

74. Author's original thought.

75. See, e.g., *Tickets*, BAYLOR BEAR FOUND., <http://bearfoundation.baylorbears.com/tickets.html> (last visited Jan. 25, 2024) [<https://perma.cc/M3EA-TEPW>].

76. Frank Fear, *New Tax Code Eliminates Collegiate Seat License Fees as Charitable Contribution*, THE SPORTS COLUMN (Feb. 22, 2018), <https://www.thesportscol.com/2018/02/new-tax-code-eliminates-collegiate-seat-license-fees-as-charitable-contribution/> [<https://perma.cc/DG2M-9TVF>].

77. See, e.g., *Frequently Asked Questions*, U. OF WASH., <https://www.uwtyeeclub.com/about/faqs/> (last visited Jan. 25, 2024) [<https://perma.cc/3T4X-TFMH>]; *FAQs*, U. OF ARK., <https://razorfoundation.com/about/faqs/index.html> (last visited Jan. 25, 2024) [<https://perma.cc/S45M-5DJW>].

78. See Judith Lohman & Ryan O'Neill, *College Basketball Season Ticket Allocations*, CONN. GEN. ASSEMBLY (Mar. 13, 2000), <https://www.cga.ct.gov/2000/rpt/2000-R-0324.htm> [<https://perma.cc/8ZMH-GALB>].

79. I.R.C. § 170(l)(1) (West 2023) ("80 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.") (amended to "No deduction shall be allowed under this section for any amount described in paragraph (2).").

80. *Id.* § 170(l).

81. See, e.g., *Men's Basketball Season*, IRON DUKES, <https://goduke.com/sports/2020/6/4/21138769.2.aspx> (last visited Jan. 25, 2024) [<https://perma.cc/8W36-FH68>].

B. Country Club Memberships

The first country clubs in America were built in the 1850s.⁸² The number of golf-related country clubs in operation has varied between 3,900 and 5,000 over the last three decades.⁸³ Country club amenities typically include: golf, tennis, swimming, fitness, and dining; additionally, some clubs are built around cricket and yachts.⁸⁴

There are various types of memberships, and not all clubs offer the same options.⁸⁵ Equity membership includes ownership interest in the club as well as voting rights.⁸⁶ Nonequity membership allows members to use the facilities but does not include ownership, and therefore, no opportunity for the membership to increase in value.⁸⁷ Initiation fees are typically less expensive for nonequity members, but they are nonrefundable upon resignation because no part of those fees apply toward ownership interest in the club.⁸⁸ Nonequity membership is analogous to renting an apartment because members have a revocable license to use the facilities and do not have vested property rights in the club.⁸⁹ Nonequity membership is also similar to a Costco membership because both are typically subject to renewal each year.⁹⁰ Many clubs offer both equity and nonequity memberships.⁹¹ A minority of clubs exclusively offer equity membership.⁹²

82. John Steele Gordon, *The Country Club*, AM. HERITAGE (Sep–Oct. 1990), <https://www.americanheritage.com/country-club#2> [https://perma.cc/PSX3-SMFG].

83. Duncan Adams, *Societal Changes Challenge Country Clubs' Survival*, ROANOKE TIMES (Mar. 26, 2017), https://roanoke.com/business/news/societal-changes-challenge-country-clubs-survival/article_ddeb1a82-b405-55c7-b4c5-4da04ab549d4.html [https://perma.cc/FHA3-J3WD].

84. See, e.g., *Activities & Amenities*, PHILA. CRICKET CLUB, <https://www.philacricket.com/activities-and-amenities> (last visited Jan. 25, 2024) [https://perma.cc/U5E5-UZQK].

85. *Compare Categories of Membership*, HAYDEN LAKE COUNTRY CLUB (2021), https://www.haydenlakecc.com/About_the_Club/Categories_of_Membership.aspx (offering stockholding equity membership, nonequity junior membership, and nonequity social membership) [https://perma.cc/8CJP-TQYG], with *Bylaws of the Tempest Homeowners Association*, TEMPEST GOLF CLUB, 1, 2–7, 14 (2017), https://www.tempestgolfclub.com/wp-content/uploads/sites/8179/2021/06/tempst_Mem_Bylaws.pdf (offering ten different membership categories, none of which include equity) [https://perma.cc/G3MT-ZL3A].

86. See, e.g., *Board of Directors*, VAQUERO CLUB, <https://www.vaqueroclub.com/membership/equity-club/> (last visited Jan. 25, 2024) [https://perma.cc/M2SJ-BTRL].

87. See, e.g., *Club Membership Structures*, CLUB OLDE CYPRESS, <https://www.oldecypress.com/about-us/blog/equity-vs-non-equity-membership> (last visited Jan. 25, 2024) [https://perma.cc/M7QT-WN2J].

88. See, e.g., *id.*

89. See *Orchard Ridge Country Club, Inc. v. Schrey*, 470 N.E.2d 780, 783 (Ind. Ct. App. 1984).

90. See *id.*

91. See, e.g., *Membership Categories*, HONOLULU COUNTRY CLUB, <https://honolulucountryclub.com/pages/membership> (last visited Sep. 9, 2024) [https://perma.cc/3QHM-KTBT].

92. See, e.g., *About Park Meadows Country Club*, PARK MEADOWS COUNTRY CLUB, <https://www.parkmeadowsc.com/about> (last visited Jan. 25, 2024) [https://perma.cc/X4UV-AV26]; *Membership*, RUPERT COUNTRY CLUB, <https://rupertcc.com/membership/> (last visited Jan. 25, 2024) [https://perma.cc/JDR5-7R2D].

Country clubs are typically Internal Revenue Code Section 501(c)(7) organizations.⁹³ A club's property and facilities are usually owned by the nonprofit entity, which is jointly owned by its members.⁹⁴ The nonprofit entity normally issues membership certificates or shares under the club's bylaws.⁹⁵ Clubs offering both equity and nonequity membership typically only allow members with ownership to vote.⁹⁶

Articles of incorporation and bylaws generally constitute a contract between the state and the corporation, the corporation and its members, and the members among themselves.⁹⁷ Under the bylaws, the board of directors can typically set and amend membership fees and rules of transferability.⁹⁸ In some cases, the articles of incorporation give the board of directors power to amend the bylaws.⁹⁹ In other cases, the board of directors cannot amend the bylaws without at least a majority vote of the equity members.¹⁰⁰ Members assent to these rules by joining the club and assent to any changes by maintaining their memberships.¹⁰¹

1. Property Interests in Club Memberships

Whether membership in a club represents a property interest depends on state law and the type of membership.¹⁰² In Indiana, for example, the Not-For-Profit Act prevents members from having any ownership interest in the

93. I.R.C. § 501(c)(7) (West 2019) ("Clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.").

94. See *Club Members Have Cost Basis in Membership Equal to Initiation Fee*, 102 J. TAX'N 122, 122 (Feb. 2005).

95. See, e.g., *Bylaws of Morehead City Country Club, Inc.*, 1, 6, <http://www.moreheadcitycc.com/bylaws.pdf> (last visited Jan. 25, 2024) [<https://perma.cc/YS33-WP57>].

96. See, e.g., *Types of Membership*, BLUE LAKES COUNTRY CLUB, https://www.bluelakescc.com/Mobile/Membership/Types_of_Membership (last visited Jan. 25, 2024) [<https://perma.cc/JFG7-XR7R>].

97. *Orchard Ridge Country Club, Inc. v. Schrey*, 470 N.E.2d 780, 783 (Ind. Ct. App. 1984); *Turner v. Hi-Country Homeowners Ass'n*, 910 P.2d 1223, 1225 (Utah 1996) ("It is well established precedent that the bylaws of a corporation, together with the articles of incorporation, the statute under which it was incorporated, and the member's application, constitute a contract between the member and the corporation.").

98. See, e.g., *Amended and Restated Bylaws of the Petaluma Golf & Country Club*, 1, 6 (2011), PETALUMA GOLF & COUNTRY CLUB, https://www.petalumagolfandcountryclub.com/images/PGCC_BYLAWS-AS-OF-October-16th-2019.pdf [<https://perma.cc/ZPH7-6B5W>].

99. See, e.g., *Orchard Ridge Country Club*, 470 N.E.2d at 783 (showing the club offered both equity and nonequity membership) ("Unlike life members, half-honorary members do not receive lifetime contractual rights, nor do they receive vested property rights in the Club.").

100. See, e.g., *Bylaws of Juniper Hills Country Club, Inc.*, art. VIII, sec. 9, JUNIPER HILLS COUNTRY CLUB, [https://jhcc.us/getmedia/cbe3753a-e27a-45db-bf5c-ba4218bf812e/\(TEST\)_BYLAWS-w-rules_2024_docx.aspx](https://jhcc.us/getmedia/cbe3753a-e27a-45db-bf5c-ba4218bf812e/(TEST)_BYLAWS-w-rules_2024_docx.aspx) (Mar. 23, 2017) (requiring 67% of the vote to repeal or amend the bylaws) [<https://perma.cc/P6W3-Q9HK>].

101. See *Orchard Ridge Country Club*, 470 N.E.2d at 783.

102. See Brett R. Turner, *Country Club Memberships as Divisible Property*, 21 NO. 10 EQUITABLE DISTRIB. J. 109 (2004).

assets of nonprofit clubs.¹⁰³ In states where no such law exists, the organizational agreements of the clubs lay out the types of membership and determine whether they contain a property interest or not.¹⁰⁴ In some states, such as Maryland, courts have stepped in and held that nonequity membership is not property when it cannot produce value, but equity membership can be property.¹⁰⁵

Courts in Texas and California—both community property states—have held that club membership is property.¹⁰⁶ In Florida, courts have held that because the relationship between a country club and its members is governed by contract, the property rights of club members in their membership are also determined by contract.¹⁰⁷ These property rights are not unalterable, however, because the contract governing the relationship between a club and its members is amendable.¹⁰⁸

2. Transferring Equity Membership

Whether equity membership is transferable depends primarily on the organizational agreements of the club, specifically the bylaws.¹⁰⁹ Some country clubs allow equity members to transfer membership to adult children with club approval and payment of a transfer fee.¹¹⁰ For some clubs, membership is tied to owning a home in the surrounding development so that transfer of membership takes place only when title to the home is transferred.¹¹¹ Some country clubs allow members to transfer equity membership through a will.¹¹² Others only allow transfer of membership to a surviving spouse or during divorce proceedings.¹¹³ Whether equity membership is transferable may also depend on the state.¹¹⁴ Because

103. IND. CODE ANN. § 23–7–1.1–1 (West 1991); see *Orchard Ridge Country Club*, 470 N.E.2d at 783.

104. See, e.g., *Membership Bylaws*, *supra* note 85, at 14 (explaining that membership is nonequity and a revocable license).

105. *Solomon v. Solomon*, 383 Md. 176, 206 (2004) (“[M]emberships that may be transferred to other parties or can be sold, exchanged, or redeemed for some monetary amount” may be property).

106. *McIntyre v. McIntyre*, 722 S.W.2d 533, 536 (Tex. App.— San Antonio 1986, no writ); *In re Marriage of Fink*, 603 P.2d 881, 885 (Cal. 1979).

107. *Susi v. St. Andrews Country Club, Inc.*, 727 So. 2d 1058, 1061 (Fla. Dist. Ct. App. 1999).

108. 3A FLA. JUR. 2D *Associations and Clubs* § 11 (2021).

109. See, e.g., *Membership Bylaws*, *supra* note 85, at 12–13; see *Board of Directors*, *supra* note 86.

110. See, e.g., *Vaquero Memberships*, VAQUERO CLUB, <https://www.vaqueroclub.com/membership/types-of-memberships/> (last visited Jan. 25, 2024) [<https://perma.cc/5NG5-XZW5>].

111. See, e.g., *id.*

112. See, e.g., *id.*

113. See, e.g., *By-laws of Smithfields Country Club, Inc.*, SMITHFIELDS COUNTRY CLUB (Feb. 11, 2013), <https://web.archive.org/web/20210621075106/http://www.smithfields.cc:80/membership/bylaws.php> [<https://perma.cc/8DG8-GHYW>].

114. Compare *Blechman v. Estate of Blechman*, 160 So. 3d 152, 157 (Fla. Dist. Ct. App. 2015) (holding that in Florida a decedent’s property can be transferred upon death outside of probate proceedings by way of contract), with *McCaffrey v. Pittsburgh Athletic Ass’n*, 293 A.2d 51, 56 (Pa. 1972) (holding that transferability of membership could be restricted because the rights of membership are granted by the

corporations have inherent powers of self-government, courts often hesitate to step in to make equity membership transferable.¹¹⁵

III. IMPLEMENTING A STATUTE TO ADDRESS LIMITATIONS ON SEASON TICKET TRANSFER

Season ticket agreements are like adhesion contracts and terms of service agreements because they are drafted exclusively by the organization and signed (or accepted by renewal) by the party lacking bargaining power.¹¹⁶ Season ticket holders—while parties to season ticket agreements—do not negotiate the terms of the agreement, putting them at a disadvantage they can do almost nothing about.¹¹⁷ When longtime season ticket holders are unhappy with the rules of transfer, they can choose not to renew their tickets or be quiet and enjoy the performance.¹¹⁸

Many organizations, under terms of the season ticket agreement they crafted, elect *not* to directly notify current season ticket holders of changes to transfer policies.¹¹⁹ If the terms of transfer change between seasons and renewal of the holders season tickets requires agreement to the altered terms, season ticket holders will renew whether they noticed the altered terms or not, making it more like a contract of adhesion.¹²⁰ This is not unlike the terms of service virtually all of us agree to (most of us without reading them) so we can create and continue using a Facebook or Google account.¹²¹ The ULC

bylaws and could be revoked or amended).

115. See, e.g., *Susi v. St. Andrews Country Club, Inc.*, 727 So. 2d 1058, 1061 (Fla. Dist. Ct. App. 1999) (“[I]t is a well established proposition in Florida law that ordinarily courts will not intervene in the internal affairs of . . . voluntary associations.”) (quoting *Nat’l Collegiate Athletic Ass’n v. Brinkworth*, 680 So 2d 1081, 1084 (Fla. Dist. Ct. App. 1996)).

116. See *Beder v. Cleveland Browns, Inc.*, 717 N.E.2d 716, 720 (Ohio Ct. App. 1998) (explaining the court found purchasing season tickets was a contract between the Cleveland Browns and the season ticket holder) (citing *Stern v. Cleveland Browns Football Club, Inc.*, No. 95-L-196., 1996 WL 761163, at *4 (Ohio Ct. App. 1996) (also finding purchase of season tickets creates a contract)).

117. See Daniel D. Barnhizer, *Inequality of Bargaining Power*, 76 U. COLO. L. REV. 139, 202 (2005); W. David Slawson, *Standard Form Contracts and Democratic Control of Lawmaking Power*, 84 HARV. L. REV. 529, 553 (1971) (“A person who possesses the power to impose adhesive contracts on another possesses the power to make law for him without his consent. . . . [L]egislature nor a court can constitutionally allow that power to exist in private hands except when appropriate safeguards are present, including a right to judicial review.”).

118. See Heather Hamilton, *Gonzaga Cancels John Stockton’s Season Tickets Over Choice NOT to Wear Mask*, WASH. EXAMINER (Jan. 24, 2022, 4:46 PM), <https://www.washingtonexaminer.com/news/2198750/gonzaga-cancels-john-stocktons-season-tickets-over-choice-not-to-wear-mask/> [https://perma.cc/R9DK-NJ3J].

119. See, e.g., *Cincinnati Reds Season Ticket Member Additional Terms and Conditions*, CINCINNATI REDS, <https://www.mlb.com/reds/tickets/info/terms-conditions/regseason-agreement> (last visited Jan. 25, 2024) (“The Club reserves the right to amend or supplement the terms and conditions contained in this Agreement by providing either (i) written notice to Account Holder or (ii) posting such revisions or amendments [on its website] when adopted by the Club.”) [https://perma.cc/CB68-TACE].

120. See Ryan M. Rodenberg, John T. Holden & Asa D. Brown, *Real-Time Sports Data and the First Amendment*, 11 WASH. J. L. TECH. & ARTS 63, n. 74 (2015).

121. Caroline Cakebread, *You’re not alone, no one reads terms of service agreements*, BUS. INSIDER

limits the application of terms of service agreements in estate planning by proposing legislation overriding any provision that attempts to prevent transfer of digital assets upon death.¹²² Something similar can and should be done regarding season ticket agreements.¹²³

A. Proposed Statutory Language

The proposed statutory language below is meant for proposal by the National Conference of Commissioners on Uniform State Laws (NCCUSL or ULC) and subsequent adoption by state legislatures.¹²⁴ It would allow season ticket holders to direct the transfer of season tickets to immediate family members, prevent athletic and art institutions from restricting transfer simply by calling season tickets a revocable license, and would prevent organizations from changing transfer policies to apply retroactively.¹²⁵

There are four proposed sections, as follows:

Section 1. Title. This act may be cited as the Uniform Transfer of Season Tickets Act.

Section 2. Definitions. In this act:

(a) “Immediate family member” means a current spouse, parent, sibling, or lineal descendant.¹²⁶

(b) “Lineal descendant” means child, grandchild, or great-grandchild.¹²⁷

(c) “Season ticket(s)” means entrance and right to occupy a specific seat or seats for each performance or event, as determined by the organization issuing the ticket, in the same venue for a season or year, as defined by the organization issuing the ticket.¹²⁸

(d) “Season ticket agreement” means an agreement controlling the relationship between a season ticket holder and the organization issuing the tickets, including any separate terms and conditions, letters, brochures, emails, or other communications.¹²⁹

(Nov. 15, 2017, 6:30 AM), <https://www.businessinsider.com/deloitte-study-91-percent-agree-terms-of-service-without-reading-2017-11?op=1> (“A Deloitte survey of 2,000 consumers in the U.S found that 91% of people consent to legal terms and services conditions without reading them.”) [<https://perma.cc/4MB4-T6AP>].

122. REVISED UNIF. FIDUCIARY ACCESS TO DIGITAL ASSETS ACT § 4(c) (UNIF. L. COMM’N 2015).

123. See discussion *infra* Part III.A.

124. David Westfall, George Mair & Johnny Buckles, *Est. Plan. L. & Tax’n* § 1.01 (5th ed. 2021) (“State law significantly affects [estate planning] [b]y creating, characterizing, and limiting property interests.”).

125. Author’s original thought.

126. See *Tampa Bay Lightning Season Ticket Member Terms and Conditions and Arbitration Agreement*, *supra* note 20 (explaining that an immediate family member is defined as a spouse, father, mother, son, or daughter).

127. See *Timmons v. Ingraham*, 36 So. 3d 861, 864 (Fla. Dist. Ct. App. 2010) (explaining that lineal descendant means children, grandchildren, great-grandchildren, and adopted children, but not collateral heirs or step-children).

128. *Ticket*, WEBSTER’S DICTIONARY (1st ed. 1828).

129. See U.C.C. § 1-201(b)(3) (AM. L. INST. & UNIF. L. COMM’N 1977).

(e) “Agent” means a person authorized to make account transactions for a party.¹³⁰

(f) “Will” means any testamentary instrument that appoints an executor, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.¹³¹

(g) “Power of attorney” means a record granting an agent authority to act in the place of a season ticket holder.¹³²

(h) “Organization” means a corporation, partnership, joint venture, association, government or governmental subdivision or agency, or any other legal or commercial entity that provides or maintains season tickets.¹³³

(i) “Transfer” means to convey or assign possession or rights to season tickets from one person to another by gift or otherwise but not by sale.¹³⁴

Section 3. Season ticket holder direction for transfer of season tickets.

(a) A season ticket holder may allow or prohibit in a will or power of attorney, transfer of some or all of their season tickets.¹³⁵

(b) A season ticket holder’s direction under subsection (a) overrides any contrary provision in a season ticket agreement making season tickets a revocable license or nontransferable.¹³⁶

(c) A season ticket holder’s direction under subsection (a) overrides any contrary provision in a season ticket agreement prohibiting transfer of season tickets to immediate family members.¹³⁷

(d) A season ticket holder’s direction under subsection (a) overrides any contrary provision in a season ticket agreement prohibiting the period in which season tickets may be transferred but only if transfer is directed by will.¹³⁸

(e) An agent of a season ticket holder managing the transfer of season tickets must provide a copy of any relevant portion(s) of the estate planning document or court order to the organization if expressly required for transfer by the season ticket agreement.¹³⁹

130. UNIF. PROB. CODE § 6-201(2) (amended 2020).

131. *Id.* § 1-201(57).

132. *See id.* § 5B-102(7).

133. *See id.* § 1-201(31) (explaining that this term covers organizations already in existence and those yet to be formed).

134. *See Transfer*, WEBSTER’S DICTIONARY (1st ed.1828).

135. Author’s original thought.

136. *Id.*

137. *Id.*

138. *Id.*

139. *Id.*

Section 4. Season ticket agreements.

(a) If a season ticket holder provides no direction regarding transfer of season tickets by will or power of attorney, the season ticket agreement governs all transfers.¹⁴⁰

(b) If an organization has not provided a season ticket agreement, the season ticket holder may allow, or prohibit in a will or power of attorney, transfer of some or all of their season tickets.¹⁴¹

(c) This act does not impede an organization's right to terminate a season ticket agreement due to season ticket holder's inappropriate conduct or failure to make timely payment after reasonable notice.¹⁴²

B. What the Proposed Statutory Language Does

Section 3(a) establishes that a season ticket holder has the freedom to transfer season tickets during their lifetime or at death.¹⁴³ Section 3(a) combined with Section 3(c) prevents organizations from barring transfer to immediate family members, as defined in Section 2(a).¹⁴⁴ Immediate family member is defined to include: spouses, parents, siblings, and descendants, but excludes grandparents, aunts, uncles, and cousins.¹⁴⁵ The definition of immediate family member in Section 2(a) prevents organizations from barring transfer to those who rightly expect property interests in season tickets to descend within the family.¹⁴⁶ This definition is in line with the minimum expectations of whom fans reasonably expect to transfer their season tickets to.¹⁴⁷ Immediate family members are generally the first to inherit under the laws of intestate succession.¹⁴⁸

Section 3(b) gives the proposed act the majority of its weight by preventing organizations from treating season tickets as mere licenses.¹⁴⁹ Just because an organization says season tickets are a revocable license does not mean it is true.¹⁵⁰ Despite the language organizations may employ, people expect to pass on season tickets like other property that has remained in the

140. *Id.*

141. *Id.*

142. *Id.*

143. See discussion *supra* Section III.A.

144. See discussion *supra* Section III.A.

145. See discussion *supra* text accompanying notes 126–27.

146. See discussion *supra* Section III.A.

147. See generally Reid Kress Weisbord, *Fiduciary Authority & Liability in Probate Estates: An Empirical Analysis*, 53 U.C. DAVIS L. REV. 2561, 2600 (2020) (explaining that most testators nominate a spouse or blood relative to serve as their executor).

148. See, e.g., TEX. EST. CODE ANN. § 201.001.

149. See Davis, *supra* note 14, at 265 (“[I]t is important that the purchasers of season tickets and personal seat licenses enjoy more property rights than those which accompany a traditional license.”).

150. See Horton, *supra* note 22, at 566; see *Brotherston v. Prof. Basketball Club*, 604 F. Supp. 2d 1276, 1289 (W.D. Wash. 2009) (“[T]he court finds that the term ‘ticket’ in the Contract does not mean a license revocable at will.”).

family for decades or even generations, much the same way they consider digital assets inheritable property.¹⁵¹ By overriding contrary provisions in season ticket agreements, Sections 3(b)–(d) prevent organizations from getting around the proposed act.¹⁵²

Section 3(d) applies when an organization tries to limit transfer to a certain window of time.¹⁵³ This section only overrides an organization's transfer terms when a season ticket holder provides for transfer by will.¹⁵⁴ For example, organizations may continue limiting transfers during a season ticket holder's lifetime to the end of a season.¹⁵⁵

Section 3(e) discourages and prevents fraudulent transfer by expressly allowing organizations to require documentation.¹⁵⁶ This provision does not change what is already required by some organizations and in no way attempts to inhibit an organization's ability to require reasonable evidence of authorization before transferring tickets on behalf of deceased season ticket holders.¹⁵⁷ At the same time, this provision does not impact organizations that do not require documentation before allowing transfer.¹⁵⁸ Under the proposed statutory language, an organization is, in effect, consulted regarding the transfer of the season tickets because tickets cannot be transferred outside of immediate family members (unless the organization expressly allows transfer outside of immediate family, in which case the organization has essentially consented to transfer anyway).¹⁵⁹

Section 4(a) states that the season ticket agreement governs transfers when a season ticket holder dies without a will.¹⁶⁰ The season ticket agreement also governs when the season ticket holder has a will that does not specifically devise the season tickets to an immediate family member.¹⁶¹ This allows organizations appropriate freedom to govern the terms of their season ticket agreements and their relationships with season ticket holders.¹⁶²

151. See REVISED UNIF. FIDUCIARY ACCESS TO DIGIT. ASSETS ACT § 4(c) (UNIF. L. COMM'N 2015).

152. See discussion *supra* Section III.A.

153. See discussion *supra* Section III.A.

154. See discussion *supra* Section III.A.

155. See, e.g., *Season Ticket Holder Policies*, *supra* note 66 (“Transfers are processed at the completion of the football season up to May 1.”).

156. See discussion *supra* Section III.A.

157. See, e.g., *Ticket Transfers*, KAN. ST. U., https://www.kstatesports.com/sports/2015/6/15/_131476205489357505 (last visited Sep. 9, 2024) (requiring proof of immediate family relationship) [<https://perma.cc/458B-6YFS>].

158. See discussion *supra* Section III.A.

159. See discussion *supra* Section III.A.

160. See discussion *supra* Section III.A.

161. See REVISED UNIF. FIDUCIARY ACCESS TO DIGIT. ASSETS ACT § 4(a)–(c) (UNIF. L. COMM'N 2015).

162. See discussion *supra* Section III.A.

Because the majority of adults die intestate, it is anticipated that Section 4(a) will apply in most cases.¹⁶³

Section 4(b) states that, in the absence of a season ticket agreement or a provision in a season ticket agreement governing transfer, a season ticket holder's will, if they have one, governs transfer.¹⁶⁴ This rewards those who plan for the transfer of their property interest in season tickets, even if the organization does not.¹⁶⁵ This provision encourages organizations to have a transfer policy and to make season ticket holders aware of it.¹⁶⁶

Finally, Section 4(c) makes clear that the proposed statutory language in no way prevents an organization from including reasonable provisions in a season ticket agreement regarding termination for a season ticket holder's inappropriate conduct or failure to renew.¹⁶⁷

C. What the Proposed Statutory Language Does Not Do

The proposed act does not require an organization to change any part of its existing or future season ticket agreements, it simply overrides any terms that unreasonably restrict transfer.¹⁶⁸ Any portion of a season ticket agreement not expressly or implicitly overridden by the proposed language, which is otherwise legally valid, remains enforceable.¹⁶⁹ While the proposed statutory language places limits on season ticket agreements, there are some restrictions the language intentionally avoids placing on when, how, and to whom an organization may limit transfer.¹⁷⁰

To be clear, the proposed statutory language does not prevent an organization from allowing season ticket holders greater freedom to transfer tickets than the proposed act requires.¹⁷¹ An organization can, for example, allow season ticket holders to transfer property interests in season tickets to people other than immediate family members.¹⁷²

Because some organizations prefer to limit when a season ticket holder may transfer their tickets, the proposed statutory language does not attempt to limit an organization's ability to reasonably restrict periods of transfer, with one exception.¹⁷³ Although Section 3(a) allows for the transfer of season

163. Reid Kress Weisbord, *Wills for Everyone: Helping Individuals Opt Out of Intestacy*, 53 B.C. L. REV. 877, 887 (2012) (“[D]ecades of empirical studies have repeatedly confirmed that most Americans do not have a will.”).

164. See discussion *supra* Section III.A.

165. See discussion *supra* Section III.A.

166. See discussion *supra* Section III.A.

167. See discussion *supra* Section III.A.

168. See discussion *supra* Section III.A.

169. See discussion *supra* Section III.A.

170. See discussion *supra* Section III.A.

171. See discussion *supra* Section III.A.

172. See discussion *supra* Section III.A.

173. See, e.g., *Season Ticket Holder Policies*, *supra* note 66 (“Transfers are processed at the completion of the football season up to May 1.”).

tickets, both before and after death, Section 3(d) states that Section 3(a) only overrides a contrary provision of a season ticket agreement regarding the period in which transfers may be made when a season ticket holder provides for transfer of the tickets by will.¹⁷⁴ This means that if a season ticket holder dies during the season, the family does not have to wait until the season is over to transfer the tickets. In most cases, organizations will retain the freedom they currently enjoy to restrict transfer for a period after purchase.¹⁷⁵

The proposed statutory language does not address when a season ticket holder dies intestate and who should get how many tickets.¹⁷⁶ The proposed act assumes a season ticket holder who fails to transfer their season tickets before dying intestate is subject to the terms of the season ticket agreement.¹⁷⁷ An organization that allows season tickets to pass by intestacy is not prevented from retaining that policy.¹⁷⁸ Requiring season ticket holders to transfer tickets during their lifetime, or provide for transfer by will, incentivizes planning ahead and protects property interests in season tickets.¹⁷⁹ This is meant to balance the competing interests of those organizations fortunate enough to have anxious donors on a waitlist with the interests of season ticket holders wishing to pass down valuable property rights to their descendants.¹⁸⁰

The proposed statutory language does not prevent organizations from restricting the sale of property interests in season tickets.¹⁸¹ The definition of transfer in Section 2(i) does not include sale, and there is no provision in Section 3 overriding an organization's rules regarding sale.¹⁸² An organization can limit the sale of property interests in season tickets so long as a season ticket holder's ability to transfer is not restricted according to Section 3.¹⁸³

The proposed statutory language does not prevent organizations from restricting transfers involving businesses.¹⁸⁴ Season ticket holders can already—when not expressly prohibited by terms of the season ticket agreement—transfer tickets to an entity of their own creation, such as a limited partnership, to avoid certain limitations on transfer.¹⁸⁵ There is no

174. See discussion *supra* Section III.A.

175. See Davis, *supra* note 14, at 263 (explaining that organizations have an interest in limiting transfer for a period after purchase to maintain the value of season tickets).

176. See discussion *supra* Section III.A.

177. See discussion *supra* Section III.A.

178. See discussion *supra* Section III.A.

179. See discussion *supra* Section III.A.

180. Author's original thought.

181. See discussion *supra* Section III.A.

182. See discussion *supra* Section III.A.

183. See discussion *supra* Section III.A.

184. See discussion *supra* Section III.A.

185. See, e.g., *Tampa Bay Lightning Season Ticket Member Terms and Conditions and Arbitration Agreement*, *supra* note 20 (explaining that a season ticket account can be transferred to an entity controlled by the account holder).

need for the proposed act to prevent organizations from restricting this kind of transfer because its provisions, including its definition of immediate family member, adequately protect a season ticket holder's ability to transfer property interests in season tickets.¹⁸⁶ Organizations can choose whether to restrict the transfer of season tickets between businesses or between a person and a business.¹⁸⁷

Lastly, the proposed act does not restrict season ticket agreements that automatically renew season tickets.¹⁸⁸ At the same time, organizations are not required to automatically extend the opportunity to renew under the proposed language.¹⁸⁹

D. Combating Counterarguments to the Proposed Statutory Language

There are two areas of questioning regarding the proposed statutory language worth addressing.¹⁹⁰ First, why a uniform act?¹⁹¹ And second, does this legislation go far enough?¹⁹²

I. A Uniform Act Is Better than Congressional Legislation

The ULC, not Congress, should propose legislation to resolve issues surrounding season ticket transfer.¹⁹³ It is unrealistic to expect that Congress would find a solution that works for every state.¹⁹⁴ Further, it is doubtful that Congress would even attempt to do so.¹⁹⁵ Estate planning issues are matters best left to the states.¹⁹⁶ States generally do not have the choice to opt out of federal legislation.¹⁹⁷ The language proposed by the ULC would be nonbinding unless adopted by state legislatures.¹⁹⁸ As with other areas of estate planning, reluctant states are more likely to adopt ULC proposals if adoption goes well in other states.¹⁹⁹ Allowing states the choice to enact the

186. Author's original thought.

187. See discussion *supra* Section III.A.

188. See discussion *supra* Section III.A.

189. See discussion *supra* Section III.A.

190. See discussion *infra* Section III.D.

191. See discussion *infra* Section III.D.1.

192. See discussion *infra* Section III.D.2.

193. *Contra* Rachael Rustmann, *It's a Brand New Ballgame: How to Bequest Season Tickets for Your Favorite Sports Team's Games*, 4 EST. PLAN. & CMTY. PROP. L.J. 369, 386 (2012).

194. *Contra* Danette R. Davis, *The Myth & Mystery of Personal Seat Licenses and Season Tickets: Licenses or More?*, 51 ST. LOUIS U. L.J. 241, 264 (2006).

195. Author's original thought.

196. *Harris v. Zion's Sav. Bank & Tr. Co.*, 317 U.S. 447, 450 (1943).

197. See, e.g., *In re Pacheco*, 537 B.R. 935, 938 (Bankr. D. Ariz. 2015) ("Congress has expressly allowed states to opt-out of the federal bankruptcy exemption scheme . . .").

198. See *About Us*, UNIF. L. COMM'N, <https://my.uniformlaws.org/aboutulc/overview> (last visited Jan. 25, 2024) [<https://perma.cc/X4UV-AV26>].

199. See Larry E. Ribstein & Bruce H. Kobayashi, *An Economic Analysis of Uniform State Laws*, 25 J. LEGAL STUD. 131, 133 (1996) ("Our evidence concerning the states' efficient selection of which

proposed language is the best test of its merits.²⁰⁰ Allowing states to adopt language proposed by the ULC is more likely to resolve inconsistencies among states while still allowing states to ignore the issue or make changes as they see fit.²⁰¹

2. Does the Proposed Statutory Language Do Enough?

The proposed statutory language protects property interests of season ticket holders without overburdening the organization offering the tickets.²⁰² There are limited circumstances when a legislature is justified in intervening with contractual relations and even then only within certain limits.²⁰³ Country club members subject to a club's bylaws, for example, are in a position to negotiate the terms of the agreement, including the terms of transfer, because they can vote to amend the bylaws.²⁰⁴ Season ticket holders, however, cannot amend a season ticket agreement or propose different terms.²⁰⁵

If the proposed uniform act imposes too many restrictions or is otherwise unpopular, few states, if any, could be expected to adopt it.²⁰⁶ The point of the proposed legislation is to limit unreasonable restrictions on the transfer of property interests in which there is a reasonable expectation of descendancy within the family.²⁰⁷ The proposed statutory language is sufficient to protect the property interests of season ticket holders by allowing them to transfer their season tickets within the family, if the organization does not already allow it.²⁰⁸ The proposed language does so without placing unnecessary or unreasonable burdens on the organizations offering season tickets, thus, making states more likely to adopt the proposed uniform act.²⁰⁹

NCCUSL proposals to adopt suggests that a more drastic federalization of the law in order to achieve efficient uniformity would be both unnecessary and perverse . . . [T]he NCCUSL has had success with proposals in areas in which uniformity is desirable—and it is the efficient sorting by state legislatures, not the appropriate discretion of the NCCUSL, that produces efficient uniformity.”)

200. See *Fiduciary Access to Digital Assets Act, Revised*, UNIF. L. COMM'N, <https://www.uniformlaws.org/committees/community-home?CommunityKey=f7237fc4-74c2-4728-81c6-b39a91ecdf22> (last visited Jan. 25, 2024) (drafted in 2015 and currently enacted by all but two states) [<https://perma.cc/3F9N-X78B>].

201. See Ribstein & Kobayashi, *supra* note 199, at 133.

202. *Contra* Danette R. Davis, *The Myth & Mystery of Personal Seat Licenses and Season Tickets: Licenses or More?*, 51 ST. LOUIS U. L.J. 241, 266 (2006) (arguing a season ticket holder's property interests should be transferable without any restrictions).

203. See *supra* text accompanying notes 117–21.

204. See discussion *supra* Section II.B.

205. See *supra* text accompanying notes 117–21.

206. See, e.g., *Assignment of Rents Act*, UNIF. L. COMM'N, <https://www.uniformlaws.org/committees/community-home?CommunityKey=87c82f3e-a630-4d14-b6df-55afb591d496> (last visited Jan. 25, 2024) (proposed in 2005 and only enacted in only five states) [<https://perma.cc/2TYZ-T3PM>].

207. See discussion *supra* Section III.A.

208. See discussion *supra* Section III.B.

209. See discussion *supra* Section III.B; see also Ribstein & Kobayashi, *supra* note 199, at 133.

E. Impact of Proposed Statutory Language on Collegiate Athletics

Universities are highly motivated to restrict transfer of season tickets.²¹⁰ Universities offer season tickets as incentives for donors who make large contributions.²¹¹ Placing heavy restrictions on the transfer of season tickets increases the likelihood and the frequency with which season tickets will revert to a university.²¹² These tickets then go to donors on the waitlist with the most points.²¹³ Professional sports teams do not rely on donors the same way college teams do.²¹⁴ Because of this reliance, adopting legislation will likely have a greater impact on collegiate than professional sports.²¹⁵

Virtually all universities will change or update their season ticket agreements at some point.²¹⁶ This is generally not a problem unless a university tries to retroactively apply changes to a transfer policy.²¹⁷ Universities will argue that any change in policy does not actually apply retroactively because the change is only effective starting with the upcoming season.²¹⁸ Those who become season ticket holders starting with that season will not know the difference.²¹⁹ However, the change in policy affects the rights of *all* season ticket holders, including those fans who obtained tickets at a time when there were no unreasonable restrictions on transfer.²²⁰ Many fans who obtain season tickets do so with the reasonable expectation that the tickets could someday descend within the family.²²¹

Universities will also argue that season ticket holders consent to changes in the terms by continuing to renew their season tickets.²²² Season ticket holders are not in a position to negotiate the terms of the season ticket agreement with the university.²²³ Further, universities often make changes to their transfer policies without notifying existing season ticket holders.²²⁴ There is no period for comment, and no meeting in which season ticket

210. See discussion *supra* Section II.A.3.

211. See discussion *supra* Section II.A.3.

212. See discussion *supra* Section II.A.3.

213. See discussion *supra* Section II.A.3.

214. See Joe Rodgers, *Biggest College Athletics Fundraisers: Texas A&M on Top of \$1.2 Billion List*, SPORTING NEWS GRP. (Jan. 27, 2016), <https://www.sportingnews.com/us/ncaa-football/news/college-sports-fundraisers-texas-am-1-2-billion-athletic-department-boosters-onors/jynah7u6uxpa1tygersjx4zzy> [<https://perma.cc/3GS6-FLUV>].

215. *Id.*

216. Author's original thought.

217. See *supra* accompanying text notes 117–21.

218. Author's original thought.

219. *Id.*

220. See *supra* text accompanying notes 1–11.

221. See Horton, *supra* note 22.

222. See, e.g., *Ticket Holder Policies and Procedures*, UNIV. OF ARIZ., <https://arizonawildcats.com/sports/2013/4/18/208230951.aspx> (last visited Jan. 25, 2024) [<https://perma.cc/P9ZY-MLE8>].

223. See *supra* text accompanying notes 117–21.

224. See, e.g., *Donor & Ticket Policies*, 12TH MAN FOUND. 1, 5 (Apr. 2021), <https://12thmanfoundation.com/assets/pdf/Donor-Policies-040921.pdf> (“Policies and procedures are subject to change without notice to donors.”) [<https://perma.cc/9KCX-HET2>].

holders can voice their objections.²²⁵ The proposed statutory language resolves these concerns by preventing organizations from retroactively applying certain changes to season ticket transfer policies.²²⁶ The question of whether the transfer policy allows for transfer between immediate family members at the time the season tickets were acquired is made irrelevant by the proposed statutory language.²²⁷

IV. APPLYING THE PROPOSED STATUTE TO A FEW SCENARIOS

Returning to the hypothetical at the beginning of this Article, John Jr. has sat in the same seats for nearly every one of his alma mater's home football games for as long as he can remember.²²⁸ The university's athletics donor club gave John Jr.'s grandfather, James, season tickets for helping build the stadium more than thirty years ago.²²⁹ John Jr.'s father, John Sr., holds the season tickets under his name and is likely nearing the end of his life.²³⁰ John Jr. is also a member at his local country club.²³¹ John Jr. wants to continue enjoying the season tickets after his father passes and is unsure whether he can someday pass his country club membership to one of his kids.²³²

A. Analysis of the First Hypothetical

John Jr.'s alma mater is State University.²³³ His grandfather was a member of State University's athletics donor organization, the Goat Club.²³⁴ John Jr. is not a member of the Goat Club, but he is a member at Local Country Club.²³⁵

1. Excessively Strict Season Ticket Transfer Policy

State University only allows Goat Club members to transfer their season tickets down one generation and then to blood siblings within that same generation, after which they revert to the university.²³⁶ Tickets given to Goat

225. See 5 U.S.C. § 552b(g) (West 2016); see, e.g., UTAH CODE ANN. § 16-6a-704(1) (West 2009) ("A nonprofit corporation shall give to each member entitled to vote at the meeting notice consistent with its bylaws of meetings of members in a fair and reasonable manner.").

226. See discussion *supra* Section III.A.

227. See discussion *supra* Section III.A.

228. See *supra* text accompanying notes 1–11.

229. See *supra* text accompanying notes 1–11.

230. See *supra* text accompanying notes 1–11.

231. See *supra* text accompanying note 12.

232. See *supra* text accompanying notes 1–12.

233. Author's original hypothetical.

234. *Id.*

235. *Id.*

236. *Id.*

Club members cannot be transferred to a company.²³⁷ All other season tickets are nontransferable.²³⁸

When it comes to transferring the tickets, John Jr. is out of luck.²³⁹ His grandfather received the tickets in exchange for helping build the stadium and subsequently passed them down one generation.²⁴⁰ Because State University's policy expressly prohibits downward transfer beyond a single generation, the season tickets will revert to the university.²⁴¹ John Jr. cannot get around the policy by creating a limited partnership for his father to transfer the tickets to because the policy expressly prohibits transfer to companies.²⁴² Unless John Jr. himself were to become the highest-ranking member of the Goat Club and State University agreed to transfer his father's tickets to him following his father's death, John Jr. is unlikely to ever see those season tickets again.²⁴³

Under this policy, even if John Jr. was given the opportunity to purchase season tickets of his own by climbing the rankings of the Goat Club and making large annual donations, his children would be unable to transfer those tickets to anyone, including their children.²⁴⁴

2. Flexible Bylaws Make for Easy Transfer of Equity Membership

The bylaws of Local Country Club state that an equity membership may be transferred during life to a son, daughter, son-in-law, or daughter-in-law.²⁴⁵ Upon death, the membership may be transferred to the surviving spouse with the same conditions as if transferred during the deceased member's life or sold by the decedent's estate.²⁴⁶ Any sale or transfer must be approved by the board of directors.²⁴⁷

These bylaws do not require testamentary documents for an equity membership to be transferred or sold.²⁴⁸ Even so, estate planning is still a good idea to ensure testamentary intent is clear.²⁴⁹ Note that upon death there is no default outcome; if an equity member does not transfer the membership during life or make his intentions clear by will, the decision is left up to a

237. *Id.*

238. *Id.*

239. *Id.*

240. *Id.*

241. *Id.*

242. *Id.*

243. *Id.*

244. *Id.*

245. *Id.*

246. *Id.*

247. *Id.*

248. *Id.*

249. Author's original thought.

personal representative appointed under laws of intestacy.²⁵⁰ Flexible bylaws make for easy estate planning, but only if the member makes an estate plan.²⁵¹

If John Jr. wants to ensure the club membership ends up with one of his kids someday, he should name them as the intended beneficiary in his will.²⁵² Even if he intends to transfer the membership before his death, it would be wise to devise the membership by will in case he is unable to make the transfer during his lifetime.²⁵³ If John Jr. is unhappy with any part of the transfer policy, as an equity member he can vote to amend the bylaws—unlike State University season ticket holders.²⁵⁴

3. Proposed Statutory Language Applied to the First Hypothetical

The overly restrictive transfer policies of State University demonstrate the sad reality that many fans face.²⁵⁵ Assuming that the ULC drafted the statutory language proposed above and that the legislature in John Jr.'s state has adopted that language, the results for John Jr. and his family will be very different.²⁵⁶

Sections 3(a)–(c) of the proposed statute override the policy limiting transfer to one generation and then to blood siblings.²⁵⁷ Section 3(b) makes the tickets transferable, and section 3(c) allows John Sr. to transfer the tickets to immediate family members instead of just blood siblings.²⁵⁸ The proposed language does not, however, have any impact on the policy restricting transfer to companies.²⁵⁹

Sections 3(a) and 3(c) make clear that transfer by will to an immediate family member is always valid.²⁶⁰ It is important to note that if John Sr. tried to directly transfer the tickets to John Jr. during his lifetime, the proposed language does not expressly override the Goat Club restrictions on transfer.²⁶¹ One way John Sr. can get around this is by executing a power of attorney authorizing someone to make the transfer for him.²⁶² The proposed statute makes sure that the transfer is deliberate and planned.²⁶³

It is also important to note that even if the proposed statutory language applies, John Sr. must specifically devise the tickets by will if he does not

250. See, e.g., TEX. EST. CODE ANN. § 201.003.

251. Author's original thought.

252. *Id.*

253. *Id.*

254. See discussion *supra* Section II.B.1.

255. See discussion *supra* Section II.A.2.

256. See discussion *supra* Section III.A.

257. See discussion *supra* Section III.A.

258. See discussion *supra* Section III.A.

259. See discussion *supra* Section III.A.

260. See discussion *supra* Section III.A.

261. See discussion *supra* Section III.A.

262. Author's original thought.

263. *Id.*

transfer them before his death.²⁶⁴ According to Section 4(a), failure to do so results in the season ticket agreement governing the transfer.²⁶⁵ For John Jr. and his family, this would mean the end of enjoying the family season tickets.²⁶⁶

B. Facts and Analysis of a Second Hypothetical

In this hypothetical, John Jr., his family, and John Sr. all live in Texas.²⁶⁷ John Jr. graduated from a university in Texas, Texas University, and has a nonequity membership at Golf & Tennis Country Club.²⁶⁸ John Sr. joined the Texas University athletics donor organization, the Sheep Club, and subsequently became a season ticket holder.²⁶⁹

1. Slightly Less Restrictive Season Ticket Transfer Policy

Texas University allows transfer to immediate family members—defined as children, parents, grandchildren, and siblings—at any time, but only if that family member is also a member of the Sheep Club and makes the same level or higher of annual donations.²⁷⁰ Texas University also allows transfer upon death to a surviving spouse or an immediate family member, subject to the same conditions as if made during the season ticket holder's lifetime.²⁷¹ Sheep Club members receive one point per \$100 donated, and points are nontransferable except to a surviving spouse.²⁷² Under this policy, there is no way the tickets can transfer to someone who is not making significant annual contributions to the university.²⁷³

In this second hypothetical, John Sr. has one route for transfer: John Jr. can qualify as a transferee by joining the Sheep Club and matching his father's annual donations.²⁷⁴ Fortunately for John Jr., the length of time as a member of the Sheep Club is a nonfactor.²⁷⁵ To qualify to receive his father's tickets, he does not have to match his father's point total, just his level of annual contributions.²⁷⁶ If the transfer is successful it is possible, but unlikely,

264. See discussion *supra* Section III.A.

265. See discussion *supra* Section III.A.

266. See discussion *supra* Section III.A.

267. Author's original hypothetical.

268. *Id.*

269. *Id.*

270. *Id.*

271. *Id.*

272. *Id.*

273. *Id.*

274. *Id.*

275. *Id.*; See, e.g., *Contra Membership Benefits*, BYU COUGAR CLUB, <https://www.cougarcub.com/membership-benefits> (last visited Jan. 25, 2024) (“100 points for each year of continuous season ticket purchase”) [<https://perma.cc/B473-WBLR>].

276. Author's original hypothetical.

that the transfer policy will continue allowing transfer for several decades so that John Jr. can transfer the season tickets to any of his children who might be willing to match his annual donations to the university.²⁷⁷

2. Nontransferable Nonequity Club Membership

The bylaws of Golf & Tennis Country Club state that membership is a license to use club facilities, meaning that members do not have ownership interest in the club, that the membership is nontransferable, and that the club may amend the bylaws at any time with or without notice.²⁷⁸ Because Golf & Tennis Country Club only offers nonequity membership, John Jr. can enjoy the membership as long as he continues paying the monthly or yearly fees, but he has no right to transfer the membership to anyone, including his children.²⁷⁹

3. Season Ticket Transfer Under Intestacy

According to the Texas University transfer policy, season tickets may be transferred upon death to the surviving spouse.²⁸⁰ If John Jr.'s mother is still living, the tickets would pass to her without difficulty, but she would be required to continue making the same donations to renew the tickets the following season.²⁸¹ If she is not still living, the transfer policy allows the tickets to pass to immediate family members, but only if the transferee is already making the same level of donations as the deceased season ticket holder.²⁸² Assuming John Sr.'s wife predeceased him, John Jr. has no siblings, and John Jr. is a member of the Sheep Club and has made the same level of annual donations as his father, John Jr. would receive the tickets through intestacy.²⁸³ If any of those conditions fail, transfer becomes more complicated.²⁸⁴

Under intestacy, even if the proposed statutory language were in effect, the result would be the same.²⁸⁵ Even though Sections 3(a) and 3(b) override any part of a season ticket agreement making the tickets nontransferable, they only do so if the season ticket holder provides for their transfer by will or power of attorney.²⁸⁶ Section 4(a) makes this clear by stating the season ticket agreement governs all transfers in the absence of a will or power of

277. *Id.*

278. *Id.*

279. *Id.*

280. *Id.*

281. *Id.*

282. *Id.*

283. *Id.*

284. Author's original thought.

285. See discussion *supra* Section III.A.

286. See discussion *supra* Section III.A.

attorney.²⁸⁷ Whether the proposed statute applies or not, lack of estate planning limits transfer of season tickets under policies like this one.²⁸⁸

4. Proposed Statutory Language Applied to the Second Hypothetical

Section 3(b) of the proposed statutory language overrides the Texas University requirement that family members join the Sheep Club and match the season ticket holder's annual donations.²⁸⁹ Like the first hypothetical, if John Sr. tried to directly transfer the tickets to John Jr. himself, the proposed statutory language does not expressly override the Sheep Club donation requirements.²⁹⁰ John Sr. can resolve this by executing a power of attorney authorizing someone to make the transfer on his behalf.²⁹¹ Again, the proposed statute ensures that transfer is deliberate and planned.²⁹²

Section 3(c) adds a season ticket holder's current spouse to the definition of immediate family member.²⁹³ The current spouse is presumably an equal contributor and should not be barred from inter vivos transfer simply because they are not the named account holder.²⁹⁴ The proposed statute does nothing to interfere with the calculation and nontransferability of Sheep Club points.²⁹⁵

Like the first hypothetical, even if the proposed statutory language applies, it is very important that if John Sr. does not transfer the season tickets before his death, he specifically devises the tickets by will.²⁹⁶ Failure to do so, according to Section 4(a), results in the season ticket agreement governing transfer.²⁹⁷ For John Jr., this would require joining the Sheep Club before John Sr.'s death and matching his father's annual donation amount.²⁹⁸

C. Facts and Analysis of a Third Hypothetical

Instead of college football, John Sr. has season tickets to National Football League games.²⁹⁹

287. See discussion *supra* Section III.A.

288. Author's original thought.

289. See discussion *supra* Section III.A.

290. *Id.*; *supra* text accompanying note 263.

291. Author's original thought.

292. See *supra* text accompanying note 265.

293. See discussion *supra* Section III.A.

294. Author's original thought.

295. See discussion *supra* Section III.A.

296. See discussion *supra* Section III.A.; see *supra* text accompanying note 266.

297. *Id.*; *supra* text accompanying note 267.

298. Author's original hypothetical.

299. *Id.*

1. Reasonable Season Ticket Transfer Policy

The Personal Seat License Agreement uses language common for the league.³⁰⁰ The agreement does not expressly give John Sr. any personal property rights and prevents their sale, but it does allow (with written consent of the team) transfer to a spouse, parent, grandparent, sibling, child, or grandchild.³⁰¹ The agreement does not distinguish between transfer at death or during life.³⁰²

2. Proposed Statutory Language Applied to a Third Hypothetical

The proposed statutory language applies to personal seat licenses in the same way it applies to season tickets.³⁰³ The proposed language does not require that the agreement grant John Sr. personal property rights in the season tickets if transfer is not unreasonably restricted, nor does the proposed statute restrict an organization's ability to limit sale.³⁰⁴ The license agreement allows for transfer to grandparents, which is more than the minimum required by the proposed statutory language.³⁰⁵ This is not a problem since the proposed statute does not prevent organizations from granting greater transfer rights.³⁰⁶

Because the license agreement does not distinguish between inter vivos transfer and transfer at death, John Sr. can presumably transfer his season tickets to his son (with written consent of the team) or he can do so by will, regardless of whether the team gives him permission or not.³⁰⁷ No conflict exists between the policy and the proposed language if John Sr. devises the tickets to John Jr. through his will.³⁰⁸ If John Sr. does not transfer the season tickets during his lifetime and his will is silent regarding the tickets, or he does not have a will, Section 4(a) of the proposed statute applies and what happens to the tickets is governed entirely by the Personal Seat License Agreement.³⁰⁹

300. See, e.g., *Personal Seat License Agreement (Club)*, LAS VEGAS RAIDERS, 1, 1–2 (2019), https://raiders.stmmarketplace.com/images/library/raiders/Raiders_Personal_Seat_License_Agreement_Reserve_d_030119.pdf [<https://perma.cc/H27H-GDEA>].

301. *Id.* at Exhibit C, pg. 3.

302. *Id.*

303. See discussion *supra* Section III.A.

304. See discussion *supra* Section III.A.

305. Author's original hypothetical; see discussion *supra* Section III.A.

306. See discussion *supra* Section III.A.

307. See discussion *supra* Section III.A.

308. See discussion *supra* Section III.A.

309. See discussion *supra* Section III.A.

V. CONCLUSION

Property interests and transfer of season tickets and country club memberships vary by state and by organization.³¹⁰ There is significant diversity among organizations and their limitations on season ticket transfer.³¹¹ These limitations reflected in their transfer policies are often contrary to the reasonable expectations of season ticket holders, who expect their tickets will descend within the family.³¹² Because there are inherent limits to the restrictions that should be placed on property interests in season tickets, the ULC should draft legislation overriding any language in a season ticket agreement denying transfer to immediate family members.³¹³

Considering the variability between states and the diverse transfer policies of various institutions, estate planners often struggle to help clients who wish to include season tickets in their estate plans.³¹⁴ Removing this element of uncertainty can go a long way in helping season ticket holders reliably predict what will happen to some of their most prized property interests when they die.³¹⁵ The proposed statutory language protects property interests of season ticket holders by allowing them to transfer their interests in season tickets within the family, if the organization does not already allow it.³¹⁶ The proposed statutory language accomplishes this by expressly overriding terms in a season ticket agreements that bar transfer at death, treat season tickets as a revocable license, or limit transfer to anything less than immediate family members.³¹⁷

The proposed statute does not require organizations to amend their season ticket agreements and organizations remain free to offer greater transfer freedom than the minimum established by the statute.³¹⁸ Organizations are not prevented from restricting sale or barring transfer to corporations.³¹⁹ When a season ticket holder dies without a will, the season ticket agreement governs transfer.³²⁰ Absent an agreement or provision in a season ticket agreement governing transfer, a season ticket holder's will governs transfer.³²¹ In short, the proposed statutory language protects the

310. See discussion *supra* Part II.

311. See discussion *supra* Section II.A.

312. See discussion *supra* Part I; see *supra* text accompanying notes 147–49; Horton, *supra* note 22, at 566–67.

313. See discussion *supra* Section III.A.

314. See discussion *supra* Section II.A.

315. See discussion *supra* Part IV.

316. See discussion *supra* Section II.A.

317. See discussion *supra* Section II.A.

318. See discussion *supra* Section III.C; see discussion *supra* Section III.A.

319. See discussion *supra* Section III.A.

320. *Id.*

321. *Id.*

property interests of season ticket holders without overburdening the organizations offering the tickets.³²²

322. *See id.*