

1 HB399
2 135457-3
3 By Representative DeMarco
4 RFD: Judiciary
5 First Read: 23-FEB-12

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ENROLLED, An Act,

To provide for the Uniform Interstate Depositions and Discovery Act; to allow litigants in another state to depose individuals and conduct discovery in this state; to allow litigants to present a circuit clerk of the county where discoverable materials are sought with a subpoena issued by a court in the trial state; and to require the clerk to issue a subpoena in this state that would be treated the same as any other subpoena issued in this state.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act may be cited as the Alabama Uniform Interstate Depositions and Discovery Act.

Section 2. In this act:

(1) "Foreign jurisdiction" means a state other than this state.

(2) "Foreign subpoena" means a subpoena issued in a civil action under authority of a court of record of a foreign jurisdiction.

(3) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

1 (4) "State" means a state of the United States, the
2 District of Columbia, Puerto Rico, the United States Virgin
3 Islands, a federally recognized Indian tribe, or any territory
4 or insular possession subject to the jurisdiction of the
5 United States.

6 (5) "Subpoena" means a document, however
7 denominated, issued in a civil action under authority of a
8 court of record requiring a person to:

9 (A) Attend and give testimony at a deposition.

10 (B) Produce and permit inspection and copying of
11 designated books, documents, records, electronically stored
12 information, or tangible things in the possession, custody, or
13 control of the person.

14 (C) Permit inspection of premises under the control
15 of the person.

16 Section 3. (a) To request issuance of a subpoena
17 under this section, a party must submit a foreign subpoena to
18 a clerk of the circuit court in the county in which discovery
19 is sought to be conducted in this state. A request for the
20 issuance of a subpoena under this act does not constitute an
21 appearance in the courts of this state.

22 (b) When a party submits a foreign subpoena to a
23 clerk of the circuit court in this state, the clerk, in
24 accordance with that court's procedure, shall promptly issue a

1 subpoena for service upon the person to which the foreign
2 subpoena is directed.

3 (c) A subpoena under subsection (b) must:

4 (1) Incorporate the terms used in the foreign
5 subpoena.

6 (2) Contain or be accompanied by the names,
7 addresses, and telephone numbers of all counsel of record in
8 the proceeding to which the subpoena relates and of any party
9 not represented by counsel.

10 (3) Plainly and prominently state on its face: "THE
11 RECIPIENT OF THIS SUBPOENA HAS THE RIGHT TO OBJECT TO THIS
12 SUBPOENA WITHIN FIFTEEN (15) DAYS OF PROPER SERVICE BY
13 SUBMITTING A REASONABLY SPECIFIC WRITTEN OBJECTION TO THE
14 PARTY INITIATING THE SUBPOENA AS WELL AS THE LOCAL ISSUING
15 CLERK OF THE COURT AT THE FOLLOWING ADDRESS: [ADDRESS OF CLERK
16 OF COURT]."

17 Section 4. A subpoena issued by a clerk of court
18 under Section 3 must be served in compliance with Rule 45 of
19 the Alabama Rules of Civil Procedure.

20 Section 5. The Alabama Rules of Civil Procedure as
21 well as any applicable provision of the Code of Alabama 1975,
22 apply to subpoenas issued under Section 3. To the extent that
23 the provisions of Rule 28(b)(3) and subsection (c) of Rule 28
24 conflict with this act, those provisions are no longer
25 effective.

1 Section 6. An application to the court for a
2 protective order or to enforce, quash, or modify a subpoena
3 issued by a clerk of court under Section 3 must comply with
4 the rules or statutes of this state and must be submitted to
5 the circuit court in the county in which discovery is to be
6 conducted.

7 Section 7. In applying and construing this uniform
8 act, consideration shall be given to the need to promote
9 uniformity of the law with respect to its subject matter among
10 states that enact it.

11 The privilege extended to persons in other states
12 for discovery under this article shall only apply if the
13 jurisdiction where the action is pending has extended a
14 similar privilege to persons in this state.

15 Section 8. This act applies to requests for
16 discovery in cases pending on or filed after the effective
17 date of this act.

18 Section 9. This act takes effect January 1, 2013.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 19-APR-12.

Greg Pappas
Clerk

Senate	<hr/> 16-MAY-12 <hr/>	Amended and Passed
House	<hr/> 16-MAY-12 <hr/>	Concurred in Sen- ate Amendment