

1 SB44  
2 125882-1  
3 By Senator Ward  
4 RFD: Judiciary  
5 First Read: 01-MAR-11  
6 PFD: 02/22/2011

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8 SYNOPSIS: Under existing law, a declaration which was  
9 to be used in a judicial or administrative  
10 proceeding is required to be in the form of an  
11 affidavit sworn to in the presence of a notary  
12 public.

13 This bill would give validity to an unsworn  
14 declaration if the declarant is outside the  
15 territorial limits of the United States and the  
16 declaration is signed under penalty of perjury.

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18 A BILL  
19 TO BE ENTITLED  
20 AN ACT  
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22 To add Subdivision 3.5 to Division 1 of Article 1 of  
23 Chapter 21 of Title 12, Code of Alabama 1975, to adopt the  
24 Alabama Uniform Unsworn Foreign Declarations Act; to provide  
25 for the validity under certain conditions of an unsworn  
26 declaration if the declarant is outside the territorial limits

1 of the United States and the declaration is signed under  
2 penalty of perjury.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Subdivision 3.5 is added to Division 1 of  
5 Article 1 of Chapter 21 of Title 12, Code of Alabama 1975, to  
6 read as follows.

7 Subdivision 3.5. Alabama Uniform Unsworn Foreign  
8 Declarations Act.

9 §12-21-80. SHORT TITLE.

10 This subdivision may be cited as the Alabama Uniform  
11 Unsworn Foreign Declarations Act.

12 §12-21-81. DEFINITIONS.

13 In this subdivision:

14 (1) "Boundaries of the United States" means the  
15 geographic boundaries of the United States, Puerto Rico, the  
16 United States Virgin Islands, and any territory or insular  
17 possession subject to the jurisdiction of the United States.

18 (2) "Law" includes the federal or a state  
19 constitution, a federal or state statute, a judicial decision  
20 or order, a rule of court, an executive order, and an  
21 administrative rule, regulation, or order.

22 (3) "Record" means information that is inscribed on  
23 a tangible medium or that is stored in an electronic or other  
24 medium and is retrievable in perceivable form.

25 (4) "Sign" means, with present intent to  
26 authenticate or adopt a record:

27 (A) to execute or adopt a tangible symbol; or

1 (B) to attach to or logically associate with the  
2 record an electronic symbol, sound, or process.

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

7 (6) "Sworn declaration" means a declaration in a  
8 signed record given under oath. The term includes a sworn  
9 statement, verification, certificate, and affidavit.

10 (7) "Unsworn declaration" means a declaration in a  
11 signed record that is not given under oath, but is given under  
12 penalty of perjury.

13 §12-21-82. APPLICABILITY.

14 This subdivision applies to an unsworn declaration  
15 by a declarant who at the time of making the declaration is  
16 physically located outside the boundaries of the United States  
17 whether or not the location is subject to the jurisdiction of  
18 the United States. This subdivision does not apply to a  
19 declaration by a declarant who is physically located on  
20 property that is within the boundaries of the United States  
21 and subject to the jurisdiction of another country or a  
22 federally recognized Indian tribe.

23 §12-21-83. VALIDITY OF UNSWORN DECLARATION.

24 (a) Except as otherwise provided in subsection (b),  
25 if a law of this state requires or permits use of a sworn  
26 declaration, an unsworn declaration meeting the requirements

1 of this subdivision has the same effect as a sworn  
2 declaration.

3 (b) This subdivision does not apply to:

4 (1) a deposition;

5 (2) an oath of office;

6 (3) an oath required to be given before a specified  
7 official other than a notary public;

8 (4) a declaration to be recorded pursuant to Title  
9 35;

10 (5) an oath required by Sections 43-8-132 and  
11 43-8-133; or

12 (6) a durable power of attorney executed pursuant to  
13 Chapter 1 of Title 26.

14 §12-21-84. REQUIRED MEDIUM.

15 If a law of this state requires that a sworn  
16 declaration be presented in a particular medium, an unsworn  
17 declaration must be presented in that medium.

18 §12-21-85. FORM OF UNSWORN DECLARATION.

19 An unsworn declaration under this subdivision must  
20 be in substantially the following form:

21 I declare under penalty of perjury under the law of  
22 the State of Alabama that the foregoing is true and correct,  
23 and that I am physically located outside the geographic  
24 boundaries of the United States, Puerto Rico, the United  
25 States Virgin Islands, and any territory or insular possession  
26 subject to the jurisdiction of the United States.

27 Executed on the (date), day of (month), (year), at

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(specific location, including city, state, country,  
or other descriptive information)

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(printed name)

\_\_\_\_\_  
(signature)

§12-21-86. UNIFORMITY OF APPLICATION AND  
CONSTRUCTION.

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

§12-21-87. RELATION TO ELECTRONIC SIGNATURES IN  
GLOBAL AND NATIONAL COMMERCE ACT.

This subdivision modifies, limits, and supersedes  
the federal Electronic Signatures in Global and National  
Commerce Act, 15 U.S.C. Section 7001, et seq., but does not  
modify, limit, or supersede Section 101(c) of that act, 15  
U.S.C. Section 7001(c), or authorize electronic delivery of  
any of the notices described in Section 103(b) of that act, 15  
U.S.C. Section 7003(b).

Section 2. All laws or parts of laws which conflict  
with this act are repealed.

Section 3. This act shall take effect on January 1,  
2012.

