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HOUSE BILL 792

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Eliseo Lee Alcon

AN ACT

RELATING TO COURT PROCEEDINGS; ENACTING THE UNIFORM UNSWORN
FOREIGN DECLARATIONS ACT; AMENDING THE DEFINITION OF PERJURY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1
through 8 of this act may be cited as the "Uniform Unsworn
Foreign Declarations Act".

Section 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the
Uniform Unsworn Foreign Declarations Act:

A. "boundaries of the United States" means the
geographic boundaries of the United States, Puerto Rico, the
United States Virgin Islands and any territory or insular
possession subject to the jurisdiction of the United States;

B. "law" includes the federal or a state
constitution, a federal or state statute, a judicial decision

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[bracketed material] = delete

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1 or order, a rule of court, an executive order and an
2 administrative rule, regulation or order;

3 C. "record" means information that is inscribed on
4 a tangible medium or that is stored in an electronic or other
5 medium and is retrievable in perceivable form;

6 D. "sign" means, with present intent to
7 authenticate or adopt a record:

8 (1) to execute or adopt a tangible symbol; or

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

11 E. "state" means a state of the United States, the
12 District of Columbia, Puerto Rico, the United States Virgin
13 Islands or any territory or insular possession subject to the
14 jurisdiction of the United States;

15 F. "sworn declaration" means a declaration in a
16 signed record given under oath. The term includes a sworn
17 statement, verification, certificate and affidavit; and

18 G. "unsworn declaration" means a declaration in a
19 signed record that is not given under oath, but is given under
20 penalty of perjury.

21 Section 3. [NEW MATERIAL] APPLICABILITY.--The Uniform
22 Unsworn Foreign Declarations Act applies to an unsworn
23 declaration by a declarant who at the time of making the
24 declaration is physically located outside the boundaries of the
25 United States whether or not the location is subject to the

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1 jurisdiction of the United States. The Uniform Unsworn Foreign
2 Declarations Act does not apply to a declaration by a declarant
3 who is physically located on property that is within the
4 boundaries of the United States and subject to the jurisdiction
5 of another country or a federally recognized Indian tribe.

6 Section 4. [NEW MATERIAL] VALIDITY OF UNSWORN
7 DECLARATION.--

8 A. Except as otherwise provided in Subsection B of
9 this section, if a law of New Mexico requires or permits use of
10 a sworn declaration, an unsworn declaration meeting the
11 requirements of the Uniform Unsworn Foreign Declarations Act
12 has the same effect as a sworn declaration.

13 B. The Uniform Unsworn Foreign Declarations Act
14 does not apply to:

- 15 (1) a deposition;
16 (2) an oath of office;
17 (3) an oath required to be given before a
18 specified official other than a notary public;
19 (4) a declaration to be recorded in records
20 affecting real property pursuant to Section 14-9-1 or 14-9-7
21 NMSA 1978; or
22 (5) an oath required for self-proved wills by
23 Section 45-2-504 NMSA 1978.

24 Section 5. [NEW MATERIAL] REQUIRED MEDIUM.--If a law of
25 New Mexico requires that a sworn declaration be presented in a

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1 particular medium, an unsworn declaration shall be presented in
2 that medium.

3 Section 6. [NEW MATERIAL] FORM OF UNSWORN
4 DECLARATION.--An unsworn declaration pursuant to the Uniform
5 Unsworn Foreign Declarations Act shall be in substantially the
6 following form:

7 "I declare under penalty of perjury under the law of New
8 Mexico that the foregoing is true and correct and that I am
9 physically located outside the geographic boundaries of the
10 United States, Puerto Rico, the United States Virgin Islands
11 and any territory or insular possession subject to the
12 jurisdiction of the United States.

13 Executed on the _____ day of _____, _____, at
14 (date) (month) (year)
15 _____,
16 (city or other location, and state)

17 _____.
18 (country)

19 _____
20 (printed name)

21 _____
22 (signature)".

23 Section 7. [NEW MATERIAL] UNIFORMITY OF APPLICATION AND
24 CONSTRUCTION.--In applying and construing the Uniform Unsworn
25 Foreign Declarations Act, consideration shall be given to the

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1 need to promote uniformity of the law with respect to its
2 subject matter among states that enact it.

3 Section 8. [NEW MATERIAL] RELATION TO ELECTRONIC
4 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. The Uniform
5 Unsworn Foreign Declarations Act modifies, limits and
6 supersedes the federal Electronic Signatures in Global and
7 National Commerce Act, 15 U.S.C. Section 7001, et seq., but
8 does not modify, limit or supersede Section 101(c) of that act,
9 15 U.S.C. Section 7001(c), or authorize electronic delivery of
10 any of the notices described in Section 103(b) of that act, 15
11 U.S.C. Section 7003(b).

12 Section 9. Section 30-25-1 NMSA 1978 (being Laws 1963,
13 Chapter 303, Section 25-1) is amended to read:

14 "30-25-1. PERJURY.--

15 A. Perjury consists of making a false statement
16 under oath, [~~or~~] affirmation or penalty of perjury, material to
17 the issue or matter involved in the course of any judicial,
18 administrative, legislative or other official proceeding or
19 matter, knowing such statement to be untrue.

20 B. Whoever commits perjury is guilty of a fourth
21 degree felony."

22 Section 10. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2009.