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Legislative Reference Bureau

AN ACT

Amending Titles 42 (Judiciary and Judicial Procedure) and 57 (Notaries Public) of the Pennsylvania Consolidated Statutes, in Uniform Unsworn Foreign Declarations Act, further providing for heading of chapter, for short title of chapter, for definitions, for applicability and for form of unsworn declaration; in revised uniform law on notarial acts, further providing for authority to perform notarial act, providing for notarial act performed by remotely located individual and further providing for notification regarding performance of notarial act on electronic record and selection of technology.

INTRODUCED _____ **20** _____

By _____ **District NO.** _____

By _____ **District NO.** _____

By _____ **District NO.** _____

By _____ **District NO.** _____

See next page for additional co-sponsors.

Prior Session _____

Referred to Committee on	
Date _____	20 _____
Reported _____	20 _____
As Committed-Amended	
Recommendation	

By Hon. _____	

AN ACT

1 Amending Titles 42 (Judiciary and Judicial Procedure) and 57
2 (Notaries Public) of the Pennsylvania Consolidated Statutes,
3 in Uniform Unsworn Foreign Declarations Act, further
4 providing for heading of chapter, for short title of chapter,
5 for definitions, for applicability and for form of unsworn
6 declaration; in Revised Uniform Law on Notarial Acts, further
7 providing for authority to perform notarial act, providing
8 for notarial act performed by remotely located individual and
9 further providing for notification regarding performance of
10 notarial act on electronic record and selection of
11 technology.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Chapter 62 heading and sections 6201, 6202, 6203
15 and 6206 of Title 42 of the Pennsylvania Consolidated Statutes
16 are amended to read:

CHAPTER 62

UNIFORM UNSWORN [FOREIGN]

DECLARATIONS ACT

20 § 6201. Short title of chapter.

21 This chapter shall be known and may be cited as the Uniform
22 Unsworn [Foreign] Declarations Act.

1 § 6202. Definitions.

2 The following words and phrases when used in this chapter
3 shall have the meanings given to them in this section unless the
4 context clearly indicates otherwise:

5 ["Boundaries of the United States." The geographic
6 boundaries of the United States, Puerto Rico, the Virgin Islands
7 and any territory or insular possession subject to the
8 jurisdiction of the United States.]

9 "Law." Includes [the Federal or a state constitution, a
10 Federal or state] a statute, [a] judicial decision or order, [a]
11 rule of court, [an] executive order and [an] administrative
12 rule, regulation or order.

13 "Record." Information that is inscribed on a tangible medium
14 or that is stored in an electronic or other medium and is
15 retrievable in perceivable form.

16 "Sign." With present intent to authenticate or adopt a
17 record:

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

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

21 ["State." A state of the United States, the District of
22 Columbia, Puerto Rico, the Virgin Islands or any territory or
23 insular possession subject to the jurisdiction of the United
24 States.]

25 "Sworn declaration." A declaration in a signed record given
26 under oath. The term includes a sworn statement, verification,
27 certificate and affidavit.

28 "Unsworn declaration." A declaration in a signed record
29 [that is] not given under oath but [is] given under penalty of
30 perjury.

1 § 6203. Applicability.

2 This chapter applies to an unsworn declaration by a declarant
3 who at the time of making the declaration is physically located
4 within or outside the boundaries of the United States whether or
5 not the location is subject to the jurisdiction of the United
6 States. [This chapter does not apply to a declaration by a
7 declarant who is physically located on property that is within
8 the boundaries of the United States and subject to the
9 jurisdiction of another country or a federally recognized Indian
10 tribe.]

11 § 6206. Form of unsworn declaration.

12 An unsworn declaration under this chapter must be in
13 substantially the following form:

14 I declare under penalty of perjury under the law of the
15 Commonwealth of Pennsylvania that the foregoing is true
16 and correct[, and that I am physically located outside
17 the geographic boundaries of the United States, Puerto
18 Rico, the Virgin Islands and any territory or insular
19 possession subject to the jurisdiction of the United
20 States].

21 [Executed] Signed on the.....day of.....,
22 at.....,
23 (date)..... (month)..... (year).....
24 ([city] county or other location, and state).....
25
26 (country).....
27 (printed name).....
28 (signature).....

29 Section 2. Section 304 of Title 57 is amended by adding a
30 subsection to read:

1 § 304. Authority to perform notarial act.

2 * * *

3 (c) Certification of tangible copies.--A notarial officer
4 may certify that a tangible copy of an electronic record is a
5 true and correct copy of the electronic record.

6 Section 3. Title 57 is amended by adding a section to read:
7 § 314.1. Notarial act performed by remotely located individual.

8 (a) General rule.--A remotely located individual may comply
9 with section 306 (relating to personal appearance required) by
10 appearing before a notary public by means of communication
11 technology.

12 (b) Use of communication technology.--A notary public
13 located in this Commonwealth may perform a notarial act
14 facilitated by communication technology for a remotely located
15 individual if all of the following apply:

16 (1) The notary public:

17 (i) has personal knowledge under section 307(a)
18 (relating to identification of individual) of the
19 identity of the individual;

20 (ii) has satisfactory evidence of the identity of
21 the remotely located individual by oath or affirmation
22 from a credible witness appearing before the notary
23 public under section 307(b)(2) or under this section; or

24 (iii) is able to reasonably identify the individual
25 by at least two different types of identity proofing
26 processes or services.

27 (2) The notary public is able to reasonably identify a
28 record before the notary public as the same record:

29 (i) in which the remotely located individual made
30 the statement; or

1 (ii) on which the remotely located individual
2 executed the signature.

3 (3) The notary public, or a person acting on behalf of
4 the notary public, creates an audio-visual recording of the
5 performance of the notarial act.

6 (4) If the remotely located individual is located
7 outside the United States, all of the following apply:

8 (i) The record:

9 (A) is to be filed with or relates to a matter
10 before a court, governmental entity, public official
11 or other entity under the jurisdiction of the United
12 States; or

13 (B) involves:

14 (I) property located in the territorial
15 jurisdiction of the United States; or

16 (II) a transaction substantially connected
17 with the United States.

18 (ii) The act of making the statement or signing the
19 record is not prohibited by the foreign state where the
20 remotely located individual is located.

21 (c) Notarial certificate.--If a notarial act is subject to
22 this section, the certificate of notarial act required by
23 section 315 (relating to certificate of notarial act) and the
24 short form certificate under section 316 (relating to short form
25 certificates) must indicate that the notarial act was performed
26 by means of communication technology.

27 (d) Sufficiency.--A short form certificate under section 316
28 for a notarial act subject to this section is sufficient if
29 either of the following apply:

30 (1) The short form certificate is in the form provided

1 by section 316 and contains a statement substantially as
2 follows:

3 "This notarial act involved the use of communication
4 technology."

5 (2) The certificate complies with the regulations
6 promulgated under subsection (g) (1).

7 (e) Audio-visual recording.--The following apply:

8 (1) This subsection applies to:

9 (i) a notary public;

10 (ii) a guardian, a conservator or an agent of a
11 notary public; or

12 (iii) a personal representative of a deceased notary
13 public.

14 (2) A person under paragraph (1) shall retain the audio-
15 visual recording created under subsection (b) (3) or cause the
16 recording to be retained by a repository designated by or on
17 behalf of the notary public. The person shall retain the
18 recording:

19 (i) for at least 10 years after the recording is
20 created; or

21 (ii) as otherwise required by the regulations
22 promulgated under subsection (g) (4).

23 (f) Notification.--The following apply:

24 (1) Before a notary public performs the notary public's
25 initial notarial act under this section, the notary public
26 must notify the department that the notary public will be
27 performing notarial acts facilitated by communication
28 technology and identify the technology.

29 (2) If the department has established standards for
30 approval of communication technology or identity proofing

1 under subsection (g) and section 327 (relating to
2 regulations), the communication technology and identity
3 proofing must conform to the standards.

4 (g) Regulations.--In addition to matters listed in section
5 327, the department may promulgate regulations regarding
6 performance of a notarial act performed under this section. The
7 regulations may do all of the following:

8 (1) Prescribe the means of performing a notarial act
9 involving communication technology to communicate with a
10 remotely located individual.

11 (2) Establish standards for communication technology and
12 identity proofing. This paragraph includes the use of
13 credential analysis, dynamic knowledge-based authentication,
14 biometrics and other means of identification.

15 (3) Establish requirements or procedures to approve
16 providers of communication technology and the process of
17 identity proofing.

18 (4) Establish standards and periods for the retention of
19 an audio-visual recording created under subsection (b) (3) of
20 the performance of a notarial act.

21 (h) Promotion of uniformity.--Before promulgating, amending
22 or repealing regulations about the performance of a notarial act
23 with respect to a remotely located individual, the department
24 shall consider, if consistent with this chapter, all of the
25 following:

26 (1) The most recent standards regarding the performance
27 of a notarial act with respect to remotely located
28 individuals promulgated by a national standard-setting
29 organization. This paragraph includes the National
30 Association of Secretaries of State.

1 (2) Standards, practices and customs of other
2 jurisdictions that enact a statutory provision substantially
3 similar to this section.

4 (3) The views of governmental officials and entities and
5 other interested persons.

6 (i) Definitions.--As used in this section, the following
7 words and phrases shall have the meanings given to them in this
8 subsection unless the context clearly indicates otherwise:

9 "Communication technology." An electronic device or process
10 that:

11 (1) allows a notary public located in this Commonwealth
12 and a remotely located individual to communicate with each
13 other simultaneously by sight and sound; and

14 (2) makes reasonable accommodations for an individual
15 with a vision, hearing or speech impairment in accordance
16 with law.

17 "Foreign state." A jurisdiction other than the United
18 States, a state or a federally recognized Indian tribe.

19 "Identity proofing." A process or service by which a third
20 person provides a notary public with a means to verify the
21 identity of a remotely located individual by a review of
22 personal information from public or private data sources.

23 "Outside the United States." A location outside the
24 geographic boundaries of:

25 (1) the United States;

26 (2) Puerto Rico;

27 (3) the Virgin Islands; and

28 (4) any territory, insular possession or other location
29 subject to the jurisdiction of the United States.

30 "Remotely located individual." An individual who is not in

1 the physical presence of the notary public performing a notarial
2 act under subsection (b).

3 Section 4. Section 320 of Title 57 is amended by adding a
4 subsection to read:

5 § 320. Notification regarding performance of notarial act on
6 electronic record; selection of technology.

7 * * *

8 (c) Certification of tangible copies.--A recorder of deeds
9 may accept for recording a tangible copy of an electronic record
10 containing a notarial certificate as satisfying any requirement
11 that the record be an original, if the notarial officer
12 executing the notarial certificate certifies that the tangible
13 copy is an accurate copy of the electronic record.

14 Section 5. This act shall take effect immediately.

