

1 **UNIFORM STATE LAW - UNIFORM UNSWORN**
2 **FOREIGN DECLARATIONS ACT**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Lyle W. Hillyard**

6 House Sponsor: Kay L. McIff

8 **LONG TITLE**

9 **General Description:**

10 This bill enacts a uniform state law on unsworn foreign declarations.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides definitions;
- 14 ▶ allows unsworn declarations to be entered into by people who are outside the
- 15 boundaries of the United States;
- 16 ▶ provides the form unsworn declarations are to take;
- 17 ▶ excludes unsworn declarations under certain circumstances; and
- 18 ▶ defines the relationship between unsworn declarations and the federal Electronic

19 Signatures in Global and National Commerce Act.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 ENACTS:

26 **78B-18-101**, Utah Code Annotated 1953

27 **78B-18-102**, Utah Code Annotated 1953

28 **78B-18-103**, Utah Code Annotated 1953

29 **78B-18-104**, Utah Code Annotated 1953

- 30 **78B-18-105**, Utah Code Annotated 1953
- 31 **78B-18-106**, Utah Code Annotated 1953
- 32 **78B-18-107**, Utah Code Annotated 1953
- 33 **78B-18-108**, Utah Code Annotated 1953

34

35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **78B-18-101** is enacted to read:

37 **CHAPTER 18. UTAH UNIFORM UNSWORN FOREIGN DECLARATIONS ACT**

38 **78B-18-101. Title.**

39 This chapter is known as the "Utah Uniform Unsworn Foreign Declarations Act."

40 Section 2. Section **78B-18-102** is enacted to read:

41 **78B-18-102. Definitions.**

42 As used in this chapter:

43 (1) "Boundaries of the United States" means the geographic boundaries of the United
44 States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession
45 subject to the jurisdiction of the United States.

46 (2) "Law" includes the federal or a state constitution, a federal or state statute, a
47 judicial decision or order, a rule of court, an executive order, and an administrative rule,
48 regulation, or order.

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

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

52 (a) to execute or adopt a tangible symbol; or

53 (b) to attach to or logically associate with the record an electronic symbol, sound, or
54 process.

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

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

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

62 Section 3. Section **78B-18-103** is enacted to read:

63 **78B-18-103. Applicability.**

64 (1) This chapter applies to an unsworn declaration by a declarant who at the time of
65 making the declaration is physically located outside the boundaries of the United States
66 whether or not the location is subject to the jurisdiction of the United States.

67 (2) This chapter does not apply to a declaration by a declarant who is physically
68 located on property that is within the boundaries of the United States and subject to the
69 jurisdiction of another country or a federally recognized Indian tribe.

70 Section 4. Section **78B-18-104** is enacted to read:

71 **78B-18-104. Validity of unsworn declaration.**

72 (1) Except as otherwise provided in Subsection (2), if a law of this state requires or
73 permits use of a sworn declaration, an unsworn declaration meeting the requirements of this
74 chapter has the same effect as a sworn declaration.

75 (2) This chapter does not apply to:

76 (a) depositions;

77 (b) oaths of office;

78 (c) oaths required to be given before a specified official other than a notary public;

79 (d) declarations to be recorded pursuant to Title 57, Real Estate; or

80 (e) oaths required by Section 75-2-504.

81 Section 5. Section **78B-18-105** is enacted to read:

82 **78B-18-105. Required Medium.**

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

85 Section 6. Section **78B-18-106** is enacted to read:

86 **78B-18-106. Form of unsworn declaration.**

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

88 I declare under penalty of perjury under the law of Utah that the foregoing is true and
89 correct, and that I am physically located outside the geographic boundaries of the United
90 States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession
91 subject to the jurisdiction of the United States.

92 Executed on the _____ day of _____, _____, at _____,

93 _____.

94 (date) _____ (month) (year) _____ (city or other location, and state) _____ (country)

95 _____

96 (printed name)

97 _____

98 (signature)

99 Section 7. Section **78B-18-107** is enacted to read:

100 **78B-18-107. Uniformity of application and construction.**

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

103 Section 8. Section **78B-18-108** is enacted to read:

104 **78B-18-108. Relation to Electronic Signatures in Global and National Commerce**
105 **Act.**

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