

**UNIFORM UNSWORN DECLARATIONS ACT**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lyle W. Hillyard**

House Sponsor: V. Lowry Snow

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**LONG TITLE**

**General Description:**

This bill addresses unsworn declarations.

**Highlighted Provisions:**

This bill:

▶ enacts the Uniform Unsworn Declarations Act, including:

- defining terms;
- providing the applicability of the act;
- addressing the validity of unsworn declarations;
- addressing required medium;
- outlining the form of an unsworn declaration;
- providing for uniformity; and
- addressing relation to the Electronic Signatures in Global and National

Commerce Act;

▶ repeals provisions related to unsworn declaration in lieu of affidavit and the Utah

Uniform Unsworn Foreign Declarations Act; and

▶ makes technical and conforming amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **57-17-3**, as last amended by Laws of Utah 2016, Chapter 384

31 **73-4-5**, as last amended by Laws of Utah 2016, Chapter 72

32 **76-8-501**, as last amended by Laws of Utah 2014, Chapter 167

33 **78B-8-302**, as last amended by Laws of Utah 2015, Chapter 210

34 ENACTS:

35 **78B-18a-101**, Utah Code Annotated 1953

36 **78B-18a-102**, Utah Code Annotated 1953

37 **78B-18a-103**, Utah Code Annotated 1953

38 **78B-18a-104**, Utah Code Annotated 1953

39 **78B-18a-105**, Utah Code Annotated 1953

40 **78B-18a-106**, Utah Code Annotated 1953

41 **78B-18a-107**, Utah Code Annotated 1953

42 **78B-18a-108**, Utah Code Annotated 1953

43 REPEALS:

44 **78B-5-705**, as renumbered and amended by Laws of Utah 2008, Chapter 119

45 **78B-18-101**, as enacted by Laws of Utah 2009, Chapter 100

46 **78B-18-102**, as enacted by Laws of Utah 2009, Chapter 100

47 **78B-18-103**, as enacted by Laws of Utah 2009, Chapter 100

48 **78B-18-104**, as enacted by Laws of Utah 2009, Chapter 100

49 **78B-18-105**, as enacted by Laws of Utah 2009, Chapter 100

50 **78B-18-106**, as enacted by Laws of Utah 2009, Chapter 100

51 **78B-18-107**, as enacted by Laws of Utah 2009, Chapter 100

52 **78B-18-108**, as enacted by Laws of Utah 2009, Chapter 100



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

55 Section 1. Section **57-17-3** is amended to read:

56 **57-17-3. Deductions from deposit -- Written itemization -- Time for return.**

57 (1) Upon termination of a tenancy, the owner or the owner's agent may apply property  
58 or money held as a deposit toward the payment of rent, damages to the premises beyond

59 reasonable wear and tear, other costs and fees provided for in the contract, or cleaning of the  
60 unit.

61 (2) No later than 30 days after the day on which a renter vacates and returns possession  
62 of a rental property to the owner or the owner's agent, the owner or the owner's agent shall  
63 deliver to the renter at the renter's last known address:

- 64 (a) the balance of any deposit;
- 65 (b) the balance of any prepaid rent; and
- 66 (c) if the owner or the owner's agent made any deductions from the deposit or prepaid  
67 rent, a written notice that itemizes and explains the reason for each deduction.

68 (3) If an owner or the owner's agent fails to comply with the requirements described in  
69 Subsection (2), the renter may serve the owner or the owner's agent, in accordance with  
70 Subsection (4), a notice that:

- 71 (a) states:
  - 72 (i) the names of the parties to the rental agreement;
  - 73 (ii) the day on which the renter vacated the rental property;
  - 74 (iii) that the owner or the owner's agent has failed to comply with the requirements  
75 described in Subsection (2); and
  - 76 (iv) the address where the owner or the owner's agent may send the items described in  
77 Subsection (2); and
- 78 (b) is substantially in the following form:

79 TENANT'S NOTICE TO PROVIDE DEPOSIT DISPOSITION

80 TO: (insert owner or owner's agent's name)

81 RE: (insert address of rental property)

82 NOTICE IS HEREBY GIVEN THAT WITHIN FIVE (5) CALENDAR DAYS

83 pursuant to Utah Code Sections [57-17-3](#) et seq., the owner or the owner's agent must provide  
84 the tenant, at the address below, a refund of the balance of any security deposit, the balance of  
85 any prepaid rent, and a notice of any deductions from the security deposit or prepaid rent as  
86 allowed by law.

87 NOTICE IS FURTHER GIVEN that the tenant vacated the property on the \_\_\_\_ day  
88 of \_\_\_\_\_, 20\_\_.

89 NOTICE IS FURTHER GIVEN that failure to comply with this notice will require the

90 owner to refund the entire security deposit, the full amount of any prepaid rent, and a penalty of  
91 \$100. If the entire security deposit, the full amount of any prepaid rent, and the penalty of \$100  
92 is not tendered to the tenant, and the tenant is required to initiate litigation to enforce the  
93 provisions of the statute, the owner may be liable for the tenant's court costs and attorney fees.

94 Tenant's Name(s): \_\_\_\_\_

95 Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

96 This is a legal document. Please read and comply with the document's terms.

97 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

98 Return of Service

99 On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I swear and attest that I served this notice  
100 in compliance with Utah Code Section 57-17-3 by:

101 \_\_\_\_\_ Delivering a copy to the owner or the owner's agent personally at the address  
102 provided in the lease agreement;

103 \_\_\_\_\_ Leaving a copy with a person of suitable age and discretion at the address  
104 provided in the lease agreement because the owner or the owner's agent was absent from the  
105 address provided in the lease agreement;

106 \_\_\_\_\_ Affixing a copy in a conspicuous place at the address provided in the lease  
107 agreement because a person of suitable age or discretion could not be found at the address  
108 provided in the lease agreement; or

109 \_\_\_\_\_ Sending a copy through registered or certified mail to the owner or the owner's  
110 agent at the address provided in the lease agreement.

111 The owner's address to which the service was effected is:

112 Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

113 \_\_\_\_\_ (server's signature)

114 Self-Authentication Declaration

115 Pursuant to Utah Code [~~Section 78B-5-705~~] Title 78B, Chapter 18a, Uniform Unsworn  
116 Declarations Act, I declare under criminal penalty of the State of Utah that the foregoing is true  
117 and correct.

118 Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

119 \_\_\_\_\_ (server's signature)

120 (4) A notice described in Subsection (3) shall be served:

121 (a) (i) by delivering a copy to the owner or the owner's agent personally at the address  
122 provided in the lease agreement;

123 (ii) if the owner or the owner's agent is absent from the address provided in the lease  
124 agreement, by leaving a copy with a person of suitable age and discretion at the address  
125 provided in the lease agreement; or

126 (iii) if a person of suitable age or discretion cannot be found at the address provided in  
127 the lease agreement, by affixing a copy in a conspicuous place at the address provided in the  
128 lease agreement; or

129 (b) by sending a copy through registered or certified mail to the owner or the owner's  
130 agent at the address provided in the lease agreement.

131 (5) Within five business days after the day on which the notice described in Subsection  
132 (3) is served, the owner or the owner's agent shall comply with the requirements described in  
133 Subsection (2).

134 Section 2. Section **73-4-5** is amended to read:

135 **73-4-5. Requirements for statement of claim in general adjudication of water**  
136 **rights.**

137 (1) Except as provided in Subsection (2), each person claiming a right to use water of a  
138 river system or water source shall, within 90 days after the day on which notice of the time to  
139 file statements of claim as described in Section **73-4-3** is served, file with the state engineer or  
140 the district court a written or electronic statement of claim, signed, and verified under oath, by  
141 the claimant, or by unsworn declaration as described in [~~Section 78B-5-705~~] Title 78B, Chapter  
142 18a, Uniform Unsworn Declarations Act, that includes:

143 (a) the name and address of the claimant;

144 (b) the nature and measure of beneficial use on which the claim is based;

145 (c) the maximum flow of water used in cubic feet per second, the maximum volume of  
146 water used in acre-feet, or the quantity of water stored in acre-feet, as applicable;

147 (d) the period of time during which the water is used each year;

148 (e) the period of time during which the water is stored each year, if applicable;

149 (f) the name of the stream or other source from which the water is diverted, the point  
150 on the stream or source where the water is diverted, and a description of the nature of the  
151 diverting works;

152 (g) the water right number associated with the claimed right or, if not of record in the  
153 state engineer's office, evidence sufficient to enable the state engineer to evaluate the basis of  
154 the claimed right, including the information listed in Subsections 73-5-13(2)(a) and (c);

155 (h) the claimed priority date;

156 (i) the place and manner of current use; and

157 (j) other facts that clearly define the extent, limits, and nature of the claim, or that are  
158 required by the written or electronic form provided by the state engineer with the notice of the  
159 time to file statements of claim.

160 (2) A person claiming a right to the use of water, as described in Subsection (1):

161 (a) may request an extension of time as described in Section 73-4-10; and

162 (b) shall file the statement described in Subsection (1) on or before the granted  
163 extension date, if an extension is granted pursuant to Section 73-4-10.

164 Section 3. Section 76-8-501 is amended to read:

165 **76-8-501. Definitions.**

166 As used in this part:

167 (1) "False statement" includes a false unsworn declaration, with "unsworn declaration"  
168 being defined in Section 78B-18a-102.

169 [(+)] (2) "Material" means capable of affecting the course or outcome of an official  
170 proceeding, unless the person who made the statement or provided the information retracts the  
171 statement or information before the earlier of:

172 (a) the end of the official proceeding in which the statement was made or the  
173 information was provided;

174 (b) when it becomes manifest that the false or misleading nature of the statement or  
175 information has been or will be exposed; or

176 (c) when the statement or information substantially affects the proceeding.

177 [(2)] (3) "Official proceeding" means:

178 (a) any proceeding before:

179 (i) a legislative, judicial, administrative, or other governmental body or official  
180 authorized by law to take evidence under oath or affirmation;

181 (ii) a notary; or

182 (iii) a person that takes evidence in connection with a proceeding described in

183 Subsection [~~(2)~~] (3)(a)(i);

184 (b) any civil or administrative action, trial, examination under oath, administrative  
185 proceeding, or other civil or administrative adjudicative process; or

186 (c) an investigation or audit conducted by:

187 (i) the Legislature, or a house, committee, subcommittee, or task force of the  
188 Legislature; or

189 (ii) an employee or independent contractor of an entity described in Subsection [~~(2)~~]  
190 (3)(c)(i), at or under the direction of an entity described in Subsection [~~(2)~~] (3)(c)(i).

191 Section 4. Section **78B-8-302** is amended to read:

192 **78B-8-302. Process servers.**

193 (1) Complaints, summonses, and subpoenas may be served by a person who is:

194 (a) 18 years of age or older at the time of service; and

195 (b) not a party to the action or a party's attorney.

196 (2) Except as provided in Subsection (5), the following may serve all process issued by  
197 the courts of this state:

198 (a) a peace officer employed by a political subdivision of the state acting within the  
199 scope and jurisdiction of the peace officer's employment;

200 (b) a sheriff or appointed deputy sheriff employed by a county of the state;

201 (c) a constable, or the constable's deputy, serving in compliance with applicable law;

202 (d) an investigator employed by the state and authorized by law to serve civil process;

203 and

204 (e) a private investigator licensed in accordance with Title 53, Chapter 9, Private  
205 Investigator Regulation Act.

206 (3) A private investigator licensed in accordance with Title 53, Chapter 9, Private  
207 Investigator Regulation Act, may not make an arrest pursuant to a bench warrant.

208 (4) While serving process, a private investigator shall:

209 (a) have on the investigator's person a visible form of credentials and identification  
210 identifying:

211 (i) the investigator's name;

212 (ii) that the investigator is a licensed private investigator; and

213 (iii) the name and address of the agency employing the investigator or, if the

214 investigator is self-employed, the address of the investigator's place of business;

215 (b) verbally communicate to the person being served that the investigator is acting as a  
216 process server; and

217 (c) print on the first page of each document served:

218 (i) the investigator's name and identification number as a private investigator; and

219 (ii) the address and phone number for the investigator's place of business.

220 (5) Any service under this section when the use of force is authorized on the face of the  
221 document, or when a breach of the peace is imminent or likely under the totality of the

222 circumstances, may only be served by:

223 (a) a law enforcement officer, as defined in Section 53-13-103; or

224 (b) a constable, as [defined] listed in Subsection 53-13-105(1)(b)(ii).

225 (6) The following may not serve process issued by a court:

226 (a) a person convicted of a felony violation of an offense listed in Subsection  
227 77-41-102(17); or

228 (b) a person who is a respondent in a proceeding described in Title 78B, Chapter 7,  
229 Protective Orders, in which a court has granted the petitioner a protective order.

230 (7) A person serving process shall:

231 (a) legibly document the date and time of service on the front page of the document  
232 being served;

233 (b) legibly print the process server's name, address, and telephone number on the return  
234 of service;

235 (c) sign the return of service in substantial compliance with [~~Section 78B-5-705~~] Title  
236 78B, Chapter 18a, Uniform Unsworn Declarations Act;

237 (d) if the process server is a peace officer, sheriff, or deputy sheriff, legibly print the  
238 badge number of the process server on the return of service; and

239 (e) if the process server is a private investigator, legibly print the private investigator's  
240 identification number on the return of service.

241 Section 5. Section 78B-18a-101 is enacted to read:

242 **CHAPTER 18a. UNIFORM UNSWORN DECLARATIONS ACT**

243 **Part 1. General Provisions**

244 **78B-18a-101. Title.**



245 This chapter is known as the "Uniform Unsworn Declarations Act."

246 Section 6. Section **78B-18a-102** is enacted to read:

247 **78B-18a-102. Definitions.**

248 In this chapter:

249 (1) "Law" includes a statute, judicial decision or order, rule of court, executive order,  
250 and administrative rule, regulation, or order.

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

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

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

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

257 (4) (a) "Sworn declaration" means a declaration in a signed record given under oath.

258 (b) "Sworn declaration" includes a sworn statement, verification, certificate, and  
259 affidavit.

260 (5) "Unsworn declaration" means a declaration in a signed record not given under oath  
261 but given under penalty of Title 76, Chapter 8, Part 5, Falsification in Official Matters.

262 Section 7. Section **78B-18a-103** is enacted to read:

263 **78B-18a-103. Applicability.**

264 This chapter applies to an unsworn declaration by a declarant who at the time of making  
265 the declaration is physically located within or outside the boundaries of the United States,  
266 whether or not the location is subject to the jurisdiction of the United States.

267 Section 8. Section **78B-18a-104** is enacted to read:

268 **78B-18a-104. Validity of unsworn declaration.**

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

272 (2) This chapter does not apply to:

273 (a) a deposition;

274 (b) an oath of office;

275 (c) an oath required to be given before a specified official other than a notary public;

276 (d) a declaration to be recorded under Title 57, Real Estate; or

277 (e) an oath required by Section 75-2-504.

278 Section 9. Section **78B-18a-105** is enacted to read:

279 **78B-18a-105. Required medium.**

280 If a law of this state requires that a sworn declaration be presented in a particular  
281 medium, an unsworn declaration must be presented in the same medium.

282 Section 10. Section **78B-18a-106** is enacted to read:

283 **78B-18a-106. Form of unsworn declaration.**

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

285 I declare under criminal penalty under the law of Utah that the foregoing is true and  
286 correct.

287 Signed on the      day of      ,      , at      .

288 Date Month Year City or other location, and state or country

289 \_\_\_\_\_

290 Printed name

291 \_\_\_\_\_

292 Signature

293 Section 11. Section **78B-18a-107** is enacted to read:

294 **78B-18a-107. Uniformity of application and construction.**

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

297 Section 12. Section **78B-18a-108** is enacted to read:

298 **78B-18a-108. Relation to Electronic Signatures in Global and National Commerce**  
299 **Act.**

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

304 Section 13. **Repealer.**

305 This bill repeals:

306 Section **78B-5-705, Unsworn declaration in lieu of affidavit.**

- 307 Section **78B-18-101**, Title.
- 308 Section **78B-18-102**, Definitions.
- 309 Section **78B-18-103**, Applicability.
- 310 Section **78B-18-104**, Validity of unsworn declaration.
- 311 Section **78B-18-105**, Required medium.
- 312 Section **78B-18-106**, Form of unsworn declaration.
- 313 Section **78B-18-107**, Uniformity of application and construction.
- 314 Section **78B-18-108**, Relation to Electronic Signatures in Global and National
- 315 **Commerce Act.**

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**