

DRAFT
FOR DISCUSSION ONLY

UNIFORM UNSWORN DOMESTIC DECLARATIONS ACT

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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ON UNIFORM STATE LAWS

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October 12, 2015

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UNIFORM UNSWORN DOMESTIC DECLARATIONS ACT

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1 **UNIFORM UNSWORN DOMESTIC DECLARATIONS ACT**

2 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Uniform Unsworn

3 Domestic Declarations Act.

4 **SECTION 2. DEFINITIONS.** In this [act]:

5 (1) “Boundaries of the United States” means the geographic boundaries of the United
6 States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession
7 subject to the jurisdiction of the United States.

8 (2) “Law” includes ~~the federal or a state constitution, a federal or~~ a state statute, a
9 judicial decision or order, a rule of court, an executive order, and an administrative rule,
10 regulation, or order.

11 (3) “Record” means information that is inscribed on a tangible medium or that is stored in
12 an electronic or other medium and is retrievable in perceivable form.

13 (4) “Sign” means, with present intent to authenticate or adopt a record:

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

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

17 (5) “State” means a state of the United States, the District of Columbia, Puerto Rico, the
18 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
19 the United States.

20 (6) “Sworn declaration” means a declaration in a signed record given under oath. The
21 term includes a sworn statement, verification, certificate, and affidavit.

22 (7) “Unsworn declaration” means a declaration in a signed record that is not given under
23 oath but given under penalty of perjury.

1 **Comment**

2 The definition of “law” is drafted in an open-ended manner to give it the widest possible
3 application. The term is not ordinarily defined in uniform acts but in this context it is important
4 that judges applying the act be in no doubt about its breadth. The wording is taken from the
5 definition contained in the Revised Model State Administrative Procedure Act.

6 **Reporter’s Note**

7
8 Section 2(2) [definition of “law”] was taken verbatim from the Uniform Unsworn
9 Foreign Declarations Act. During the Committee’s review of the draft acts, it was noted that the
10 acts [UUDA/UUDDA] in Section 4(a) purport to authorize the use of unsworn declarations even
11 when federal or state constitutional law or federal statutory law requires the use of sworn
12 declarations. Although that language comes from UUFDA, it has to be an oversight. A state
13 statute cannot repeal a constitutional provision (whether federal or state). Constitutions rarely
14 address sworn declarations although they do govern oaths, but oaths are excluded from the reach
15 of UUDA/UUDDA. And federal statutes would not govern a state’s use of unsworn declarations
16 in its own courts or agencies.

17
18 The word “law” only appears in UUDA/UUDDA in five places, and none of them need
19 any provision addressing constitutional or federal law. The word also appears in bracketed
20 materials twice but those would be removed during preparation for enactment through insertion
21 of the law being referenced in the brackets.]. In most instances, “law” is referring to the law of
22 the enacting state. Section 7 is the exception; in that section, “law” would address the general
23 law on the subject of declarations because the provision encourages interpretation to achieve
24 uniformity in the law. [A good argument could be made that the definition could be omitted
25 without harm to the act.]

26
27 **SECTION 3. APPLICABILITY.** This [act] applies to an unsworn declaration by a
28 declarant who at the time of making the unsworn declaration is physically located within the
29 boundaries of the United States.

30 **SECTION 4. VALIDITY OF UNSWORN DECLARATION.**

31 (a) Except as otherwise provided in subsection (b), if the law of this state requires or
32 permits use of a sworn declaration, an unsworn declaration meeting the requirements of this [act]
33 has the same effect as a sworn declaration.

34 (b) This [act] does not apply to:

- 35 (1) a deposition;

- 1 (2) an oath of office;
- 2 (3) an oath required to be given before a specified official other than a notary
- 3 public;
- 4 (4) a declaration to be recorded pursuant to [insert appropriate section of state's
- 5 real estate law]; or
- 6 (5) an oath required by [insert appropriate section of state's law relating to self-
- 7 proved wills].

8 *Legislative Note: Enacting states will need to ensure that the perjury laws of the enacting state*
9 *include unsworn declarations.*

10
11 **SECTION 5. REQUIRED MEDIUM.** If the law of this state requires that a sworn
12 declaration be presented in a particular medium, an unsworn declaration must be presented in
13 that medium.

14 **SECTION 6. FORM OF UNSWORN DECLARATION.** An unsworn declaration
15 under this [act] must be substantially in the following form:

16 I declare under penalty of perjury under the law of [insert name of enacting state] that the
17 foregoing is true and correct.

18 Executed on the ___ day of _____, _____, at _____.

19 (month) (year) (city or other location, and state)

20 _____
21 (printed name)

22 _____
23 (signature)

24 *Legislative Note: Enacting states will need to ensure that the perjury laws of the enacting state*
25 *include unsworn declarations.*

1 **SECTION 7. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In
2 applying and construing this uniform act, consideration must be given to the need to promote
3 uniformity of the law with respect to its subject matter among states that enact it.

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

10 **SECTION 9. REPEALS; CONFORMING AMENDMENTS.**

11 (a)

12 (b)

13 (c)

14 **SECTION 10. EFFECTIVE DATE.** This [act] takes effect