

Suggestions and Queries from the Style Committee

Received 5/22/2008

1. Section 2 – Definitions [Act § 2(2)].

Style Committee Comment: The language “are a rule or order” is ambiguous and somewhat redundant. (See “rule of court” and “executive order” earlier in provision.)

Reporter’s Response: I believe the Drafting Committee intended to include administrative rules or orders, so I have changed this provision as quoted below. If the change is not in keeping with the intent of the Drafting Committee, please let me know.

Amended Provision:

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

2. Section 2 – Definitions [Act § 2(2)].

Style Committee Query: Did the Drafting Committee intended to include municipal ordinances in the definition?

Reporter’s Response: Although we intend a broad application, I think not. Note also that the Reporter’s Notes indicate that the current language of this provision was suggested by the Style Committee on an earlier occasion.

Adding municipal ordinances would be a substantive amendment, and I would defer to the Drafting Committee on the issue. It is not simply a style matter.

3. Section 2 – Definitions. [Act §§ 2(3)(4)].

Style Committee Query: Does the act require definitions for Record and Sign?

Reporter’s Response: It seems to me that the answer is yes. We refer to sworn and unsworn declarations as “signed record(s)”. Act §§ 2(5)-(6). Without the definitions for those words, the Act potentially will lose its uniform character as courts are called on to interpret the meaning of “signed record(s).”

4. Section 2 – Definitions [Act § 2(5)].

Style Committee Suggestion: Change “given under oath” to “given subject to the penalty of perjury” or “subject to the sanctions for perjury” [or some similar provision referencing perjury law].

Reporter’s Response: The Drafting Committee intentionally chose the language in the Act because some states have no “perjury” statutes. Some states have penalties for making false

statements under oath, but do not call the offense “perjury.” We discussed this in one of our meetings, and as I remember it, the Drafting Committee decided that “given under oath” would cover states with and without “perjury” as a crime. I leave the provision as it is, subject to instructions from the Chair or the Drafting Committee.

Style Committee Suggestion: If a sworn declaration is defined as “given under oath,” as it is in the first sentence, it is redundant to say it includes an oath in the second sentence.

Reporter’s Response: I agree, and the word “oath” is deleted from the second sentence of §2(5), although the Drafting Committee may have a reason to include the word in the second sentence even though it is included in definition.

5. Section 3 – Applicability.

Style Committee Change: Delete commas in keeping with NCCUSL style / protocol.

Reporter’s Response: Commas deleted.

Style Committee Change: Change “the” at beginning of first sentence to “this” in keeping with NCCUSL style / protocol.

Reporter’s Response: “The” changed to “this”.

Style Committee Suggestion: Change “another country” at the end of the provision to “foreign county.”

Reporter’s Response: This provision has been discussed and debated by the Drafting Committee at length in each of our meetings. I am quite hesitant to change its wording without instructions from the Chair or the Drafting Committee. The provision remains as is subject to review by the Committee or action by the Chair.

6. Section 4(a). Validity of Unsworn Declaration. [Act § 4(a)]

Style Committee Change: Change “as provided” to “as otherwise provided” in keeping with NCCUSL style / protocol.

Reporter’s Response: “Otherwise” inserted as instructed.

Style Committee Change: Delete “force and” before “effect in the last portion of the sentence in keeping with NCCUSL style / protocol.

7. Section 6. Form of Unsworn Declaration.

Style Committee Change: Change “in substantially” to “substantially in” in keeping with NCCUSL style / protocol.

Reporter's Response: Changed as instructed.

Style Committee Change: Delete the quote marks around the oath provision in keeping with NCCUSL style / protocol.

Reporter's Response: Quote marks deleted.

Style Committee Change: Reformat the blanks at the end of the oath in keeping with NCCUSL style / protocol.

Reporter's Response: Blanks reformatted as instructed.

8. New Section.

Style Committee Query: Should there be a transitional section? Such a section would provide that if an unsworn declaration is presented to a court or agency after the effective date of the Act to meet a required filing which was due before the effective date of the Act, the unsworn declaration is valid even though had the filing been made when due, it would have required a sworn declaration.

Reporter's Response: This is a substantive change. I do not believe that the Committee has addressed such a provision, and I am quite hesitant to insert such a provision without instructions from the Chair or the Drafting Committee. In the Reporter's opinion, Section 4 should make such a provision unnecessary. It provides that after the effective date of the Act, an unsworn declaration has the same effect as a sworn declaration.