

DRAFT
FOR DISCUSSION ONLY

UNIFORM UNSWORN 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 DECLARATIONS ACT

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3 **Reporter’s Note**

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

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

21
22 **SECTION 3. APPLICABILITY.** This [act] applies to an unsworn declaration by a
23 declarant who at the time of making the declaration is physically located within or outside the
24 boundaries of this state or of the United States whether or not the location is subject to the
25 jurisdiction of the United States.

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

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

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

- 31 (1) a deposition;
32 (2) an oath of office;
33 (3) an oath required to be given before a specified official other than a notary

1 public;

2 (4) a declaration to be recorded pursuant to [insert appropriate section of state’s

3 real estate law]; or

4 (5) an oath required by [insert appropriate section of state’s law relating to self-

5 proved wills].

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

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

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

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

15 Executed on the ___ day of _____, _____, at _____.
16 (date) (month) (year) (city or other location, and state or country)

17 _____
18 (printed name)

19 _____
20 (signature)

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

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

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

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

8 (a)

9 (b)

10 (c)

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