



THE UNIFORM UNSWORN FOREIGN DECLARATIONS ACT

- A Summary -

Following the September 11, 2001, terrorist attacks, access to U.S. consular offices is far more restricted and difficult. Previously, if a person abroad had information relevant to a U.S. legal proceeding or transaction and was willing to provide assistance that person could visit the U.S. consular office to finalize their affidavit or statement, similarly to a person within the U.S. visiting a notary public at a local bank. Due to increased security measures, this relatively routine process became more burdensome and time consuming. Even greater hurdles exist for persons seeking statements from individuals who do not reside near a U.S. consular office. The American Bar Association (ABA) raised these issues and referred them to the Uniform Law Commission in an official report, adopted by the ABA House of Delegates in 2006. The Uniform Law Commission created the Uniform Unsworn Foreign Declarations Act (UUFDA) to address this situation and to harmonize state and federal law.

UUFDA allows the use in state law proceedings of unsworn declarations made by declarants who are physically outside the boundaries of the United States when making the declaration. Under UUFDA, if an unsworn declaration is made subject to penalties for perjury and contains the information in the model form provided in the Act, then the statement may be used as an equivalent of a sworn declaration. UUFDA forbids using these unsworn declarations as substitutes for depositions, oaths of office, oaths related to self-proved wills, declarations recorded under certain real estate statutes, and oaths required to be given before specified officials other than a notary.

UUFDA extends to state proceedings the same flexibility that federal courts have employed for over 30 years. Since 1976, federal law has allowed an unsworn declaration executed outside the U.S. to be recognized and valid as the equivalent of a sworn affidavit if it substantially includes the language: declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)

Enactment of UUFDA harmonizes state and federal treatment of unsworn declarations. The act alleviates foreign affiants' burden in providing important information for state proceedings, while at the same time helping to reduce congestion in U.S. consular offices and allowing U.S. consular officials to increase focus on core responsibilities. Further, UUFDA will reduce aspects of confusion abroad regarding differences in federal and state litigation practice and help prevent potential negative connotations about cumbersome and inconsistent legal procedure in U.S. court proceedings.

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