

AMENDMENTS TO HOUSE BILL NO. 1564

Sponsor: REPRESENTATIVE M. K. KELLER

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1 Amend Bill, page 1, lines 1 and 2, by striking out all of
2 line 1 and "Consolidated Statutes," in line 2 and inserting
3 Amending Titles 42 (Judiciary and Judicial Procedure), 53
4 (Municipalities Generally) and 57 (Notaries Public) of the
5 Pennsylvania Consolidated Statutes, in Uniform Unsworn
6 Foreign Declarations Act, further providing for heading of
7 chapter, for short title of chapter, for definitions, for
8 applicability and for form of unsworn declaration;
9 Amend Bill, page 1, line 5, by striking out the period after

10 "trailers" and inserting
11 ; in Revised Uniform Law on Notarial Acts, further providing for
12 authority to perform notarial act, providing for notarial act
13 performed by remotely located individual and further
14 providing for notification regarding performance of notarial
15 act on electronic record and selection of technology.

16 Amend Bill, page 1, lines 8 and 9, by striking out all of
17 said lines and inserting

18 Section 1. Chapter 62 heading and sections 6201, 6202, 6203
19 and 6206 of Title 42 of the Pennsylvania Consolidated Statutes
20 are amended to read:

CHAPTER 62

UNIFORM UNSWORN [FOREIGN]

DECLARATIONS ACT

24 § 6201. Short title of chapter.

25 This chapter shall be known and may be cited as the Uniform
26 Unsworn [Foreign] Declarations Act.

27 § 6202. Definitions.

28 The following words and phrases when used in this chapter
29 shall have the meanings given to them in this section unless the
30 context clearly indicates otherwise:

31 ["Boundaries of the United States." The geographic
32 boundaries of the United States, Puerto Rico, the Virgin Islands
33 and any territory or insular possession subject to the
34 jurisdiction of the United States.]

1 "Law." Includes [the Federal or a state constitution, a
2 Federal or state] a statute, [a] judicial decision or order, [a]
3 rule of court, [an] executive order and [an] administrative
4 rule, regulation or order.

5 "Record." Information that is inscribed on a tangible medium
6 or that is stored in an electronic or other medium and is
7 retrievable in perceivable form.

8 "Sign." With present intent to authenticate or adopt a
9 record:

10 (1) to execute or adopt a tangible symbol; or

11 (2) to attach to or logically associate with the record
12 an electronic symbol, sound or process.

13 ["State." A state of the United States, the District of
14 Columbia, Puerto Rico, the Virgin Islands or any territory or
15 insular possession subject to the jurisdiction of the United
16 States.]

17 "Sworn declaration." A declaration in a signed record given
18 under oath. The term includes a sworn statement, verification,
19 certificate and affidavit.

20 "Unsworn declaration." A declaration in a signed record
21 [that is] not given under oath but [is] given under penalty of
22 perjury.

23 § 6203. Applicability.

24 This chapter applies to an unsworn declaration by a declarant
25 who at the time of making the declaration is physically located
26 within or outside the boundaries of the United States whether or
27 not the location is subject to the jurisdiction of the United
28 States. [This chapter does not apply to a declaration by a
29 declarant who is physically located on property that is within
30 the boundaries of the United States and subject to the
31 jurisdiction of another country or a federally recognized Indian
32 tribe.]

33 § 6206. Form of unsworn declaration.

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

36 I declare under penalty of perjury under the law of the
37 Commonwealth of Pennsylvania that the foregoing is true
38 and correct[, and that I am physically located outside
39 the geographic boundaries of the United States, Puerto
40 Rico, the Virgin Islands and any territory or insular
41 possession subject to the jurisdiction of the United
42 States].

43 [Executed] Signed on the.....day of.....,
44 at.....,
45 (date).....(month).....(year).....
46 ([city] county or other location, and state).....
47
48 (country).....
49 (printed name).....
50 (signature).....

51 Section 2. Section 8802 of Title 53 is amended by adding

1 definitions to read:

2 Amend Bill, page 2, line 4, by striking out "2" and inserting

3 3

4 Amend Bill, page 5, by inserting between lines 9 and 10

5 Section 4. Section 304 of Title 57 is amended by adding a
6 subsection to read:

7 § 304. Authority to perform notarial act.

8 * * *

9 (c) Certification of tangible copies.--A notarial officer
10 may certify that a tangible copy of an electronic record is a
11 true and correct copy of the electronic record.

12 Section 5. Title 57 is amended by adding a section to read:
13 § 314.1. Notarial act performed by remotely located individual.

14 (a) General rule.--A remotely located individual may comply
15 with section 306 (relating to personal appearance required) by
16 appearing before a notary public by means of communication
17 technology.

18 (b) Use of communication technology.--A notary public
19 located in this Commonwealth may perform a notarial act
20 facilitated by communication technology for a remotely located
21 individual if all of the following apply:

22 (1) The notary public:

23 (i) has personal knowledge under section 307(a)
24 (relating to identification of individual) of the
25 identity of the individual;

26 (ii) has satisfactory evidence of the identity of
27 the remotely located individual by oath or affirmation
28 from a credible witness appearing before the notary
29 public under section 307(b)(2) or under this section; or

30 (iii) is able to reasonably identify the individual
31 by at least two different types of identity proofing
32 processes or services.

33 (2) The notary public is able to reasonably identify a
34 record before the notary public as the same record:

35 (i) in which the remotely located individual made
36 the statement; or

37 (ii) on which the remotely located individual
38 executed the signature.

39 (3) The notary public, or a person acting on behalf of
40 the notary public, creates an audio-visual recording of the
41 performance of the notarial act.

42 (4) If the remotely located individual is located
43 outside the United States, all of the following apply:

44 (i) The record:

45 (A) is to be filed with or relates to a matter
46 before a court, governmental entity, public official
47 or other entity under the jurisdiction of the United
48 States; or

1 (B) involves:
2 (I) property located in the territorial
3 jurisdiction of the United States; or
4 (II) a transaction substantially connected
5 with the United States.
6 (ii) The act of making the statement or signing the
7 record is not prohibited by the foreign state where the
8 remotely located individual is located.
9 (c) Notarial certificate.--If a notarial act is subject to
10 this section, the certificate of notarial act required by
11 section 315 (relating to certificate of notarial act) and the
12 short form certificate under section 316 (relating to short form
13 certificates) must indicate that the notarial act was performed
14 by means of communication technology.
15 (d) Sufficiency.--A short form certificate under section 316
16 for a notarial act subject to this section is sufficient if
17 either of the following apply:
18 (1) The short form certificate is in the form provided
19 by section 316 and contains a statement substantially as
20 follows:
21 "This notarial act involved the use of communication
22 technology."
23 (2) The certificate complies with the regulations
24 promulgated under subsection (g) (1).
25 (e) Audio-visual recording.--The following apply:
26 (1) This subsection applies to:
27 (i) a notary public;
28 (ii) a guardian, a conservator or an agent of a
29 notary public; or
30 (iii) a personal representative of a deceased notary
31 public.
32 (2) A person under paragraph (1) shall retain the audio-
33 visual recording created under subsection (b) (3) or cause the
34 recording to be retained by a repository designated by or on
35 behalf of the notary public. The person shall retain the
36 recording:
37 (i) for at least 10 years after the recording is
38 created; or
39 (ii) as otherwise required by the regulations
40 promulgated under subsection (g) (4).
41 (f) Notification.--The following apply:
42 (1) Before a notary public performs the notary public's
43 initial notarial act under this section, the notary public
44 must notify the department that the notary public will be
45 performing notarial acts facilitated by communication
46 technology and identify the technology.
47 (2) If the department has established standards for
48 approval of communication technology or identity proofing
49 under subsection (g) and section 327 (relating to
50 regulations), the communication technology and identity
51 proofing must conform to the standards.

1 (g) Regulations.--In addition to matters listed in section
2 327, the department may promulgate regulations regarding
3 performance of a notarial act performed under this section. The
4 regulations may do all of the following:

5 (1) Prescribe the means of performing a notarial act
6 involving communication technology to communicate with a
7 remotely located individual.

8 (2) Establish standards for communication technology and
9 identity proofing. This paragraph includes the use of
10 credential analysis, dynamic knowledge-based authentication,
11 biometrics and other means of identification.

12 (3) Establish requirements or procedures to approve
13 providers of communication technology and the process of
14 identity proofing.

15 (4) Establish standards and periods for the retention of
16 an audio-visual recording created under subsection (b)(3) of
17 the performance of a notarial act.

18 (h) Promotion of uniformity.--Before promulgating, amending
19 or repealing regulations about the performance of a notarial act
20 with respect to a remotely located individual, the department
21 shall consider, if consistent with this chapter, all of the
22 following:

23 (1) The most recent standards regarding the performance
24 of a notarial act with respect to remotely located
25 individuals promulgated by a national standard-setting
26 organization. This paragraph includes the National
27 Association of Secretaries of State.

28 (2) Standards, practices and customs of other
29 jurisdictions that enact a statutory provision substantially
30 similar to this section.

31 (3) The views of governmental officials and entities and
32 other interested persons.

33 (i) Definitions.--As used in this section, the following
34 words and phrases shall have the meanings given to them in this
35 subsection unless the context clearly indicates otherwise:

36 "Communication technology." An electronic device or process
37 that:

38 (1) allows a notary public located in this Commonwealth
39 and a remotely located individual to communicate with each
40 other simultaneously by sight and sound; and

41 (2) makes reasonable accommodations for an individual
42 with a vision, hearing or speech impairment in accordance
43 with law.

44 "Foreign state." A jurisdiction other than the United
45 States, a state or a federally recognized Indian tribe.

46 "Identity proofing." A process or service by which a third
47 person provides a notary public with a means to verify the
48 identity of a remotely located individual by a review of
49 personal information from public or private data sources.

50 "Outside the United States." A location outside the
51 geographic boundaries of:

1 (1) the United States;
2 (2) Puerto Rico;
3 (3) the Virgin Islands; and
4 (4) any territory, insular possession or other location
5 subject to the jurisdiction of the United States.
6 "Remotely located individual." An individual who is not in
7 the physical presence of the notary public performing a notarial
8 act under subsection (b).

9 Section 6. Section 320 of Title 57 is amended by adding a
10 subsection to read:

11 § 320. Notification regarding performance of notarial act on
12 electronic record; selection of technology.

13 * * *

14 (c) Certification of tangible copies.--A recorder of deeds
15 may accept for recording a tangible copy of an electronic record
16 containing a notarial certificate as satisfying any requirement
17 that the record be an original, if the notarial officer
18 executing the notarial certificate certifies that the tangible
19 copy is an accurate copy of the electronic record.

20 Amend Bill, page 5, lines 10 and 11, by striking out all of
21 said lines and inserting

22 Section 7. This act shall take effect as follows:

23 (1) The amendment of sections 8802, 8811(a)(1) and 8821
24 of Title 53 shall take effect January 1 of the year following
25 the date of enactment.

26 (2) The remainder of this act shall take effect
27 immediately.