

## 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.