



House of Representatives

General Assembly

File No. 561

February Session, 2010

House Bill No. 5377

House of Representatives, April 15, 2010

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT ADOPTING THE UNIFORM UNSWORN FOREIGN DECLARATIONS ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2010*) Sections 1 to 8, inclusive,
2 of this act may be cited as the "Uniform Unsworn Foreign Declarations
3 Act".

4 Sec. 2. (NEW) (*Effective October 1, 2010*) As used in sections 1 to 8,
5 inclusive, of this act and section 53a-156 of the general statutes, as
6 amended by this act:

7 (1) "Boundaries of the United States" means the geographic
8 boundaries of the United States, Puerto Rico, the United States Virgin
9 Islands, and any territory or insular possession subject to the
10 jurisdiction of the United States.

11 (2) "Law" includes the United States Constitution or a state
12 constitution, a federal or state statute, a judicial decision or order, a

13 rule of court, an executive order, or an administrative rule, regulation
14 or order.

15 (3) "Record" means information that is inscribed on a tangible
16 medium or that is stored in an electronic or other medium and is
17 retrievable in perceivable form.

18 (4) "Sign" means, with present intent to authenticate or adopt a
19 record:

20 (A) To execute or adopt a tangible symbol; or

21 (B) To attach to or logically associate with the record an electronic
22 symbol, sound or process.

23 (5) "State" means a state of the United States, the District of
24 Columbia, Puerto Rico, the United States Virgin Islands, or any
25 territory or insular possession subject to the jurisdiction of the United
26 States.

27 (6) "Sworn declaration" means a declaration in a signed record given
28 under oath. "Sworn declaration" includes a sworn statement,
29 verification, certificate or affidavit.

30 (7) "Unsworn declaration" means a declaration in a signed record
31 that is not given under oath, but is given under penalty of perjury.

32 Sec. 3. (NEW) (*Effective October 1, 2010*) Sections 1 to 8, inclusive, of
33 this act and section 53a-156 of the general statutes, as amended by this
34 act, apply to an unsworn declaration by a declarant who at the time of
35 making the declaration is physically located outside the boundaries of
36 the United States whether or not the location is subject to the
37 jurisdiction of the United States. Sections 1 to 8, inclusive, of this act
38 and section 53a-156 of the general statutes, as amended by this act, do
39 not apply to a declaration by a declarant who is physically located on
40 property that is within the boundaries of the United States and subject
41 to the jurisdiction of another country or a federally recognized Indian
42 tribe.

43 Sec. 4. (NEW) (*Effective October 1, 2010*) If a law of this state requires
44 or permits use of a sworn declaration, an unsworn declaration meeting
45 the requirements of sections 1 to 8, inclusive, of this act has the same
46 effect as a sworn declaration.

47 Sec. 5. (NEW) (*Effective October 1, 2010*) If a law of this state requires
48 that a sworn declaration be presented in a particular medium, an
49 unsworn declaration must be presented in that medium.

50 Sec. 6. (NEW) (*Effective October 1, 2010*) An unsworn declaration
51 under sections 1 to 8, inclusive, of this act shall be in substantially the
52 following form:

53 I declare under penalty of perjury under the law of Connecticut that
54 the foregoing is true and correct, and that I am physically located
55 outside the geographic boundaries of the United States, Puerto Rico,
56 the United States Virgin Islands, and any territory or insular
57 possession subject to the jurisdiction of the United States.

58 Executed on this day of (month), (year),

59 at (city or other location, state), (country).

60 (printed name)

61 (signature)

62 Sec. 7. (NEW) (*Effective October 1, 2010*) In applying and construing
63 the provisions of sections 1 to 8, inclusive, of this act and section 53a-
64 156 of the general statutes, as amended by this act, consideration shall
65 be given to the need to promote uniformity of the law with respect to
66 its subject matter among states that enact such uniform provisions.

67 Sec. 8. (NEW) (*Effective October 1, 2010*) Sections 1 to 8, inclusive, of
68 this act and section 53a-156 of the general statutes, as amended by this
69 act, modify, limit and supersede the federal Electronic Signatures in
70 Global and National Commerce Act, 15 USC Section 7001, et seq.,
71 except that nothing in sections 1 to 8, inclusive, of this act or section

72 53a-156 of the general statutes, as amended by this act, modifies, limits
73 or supersedes Section 101(c) of said act, 15 USC Section 7001(c), or
74 authorizes electronic delivery of any of the notices described in Section
75 103(b) of that act, 15 USC Section 7003(b).

76 Sec. 9. Section 53a-156 of the general statutes is repealed and the
77 following is substituted in lieu thereof (*Effective October 1, 2010*):

78 (a) A person is guilty of perjury if, in any official proceeding, he
79 intentionally, under oath or in an unsworn declaration under sections
80 1 to 8, inclusive, of this act, makes a false statement, swears, affirms or
81 testifies falsely, to a material statement which he does not believe to be
82 true.

83 (b) Perjury is a class D felony.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	New section
Sec. 2	<i>October 1, 2010</i>	New section
Sec. 3	<i>October 1, 2010</i>	New section
Sec. 4	<i>October 1, 2010</i>	New section
Sec. 5	<i>October 1, 2010</i>	New section
Sec. 6	<i>October 1, 2010</i>	New section
Sec. 7	<i>October 1, 2010</i>	New section
Sec. 8	<i>October 1, 2010</i>	New section
Sec. 9	<i>October 1, 2010</i>	53a-156

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill allows certain unsworn foreign declarations to be treated as sworn documents under Connecticut law. There is no related fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**HB 5377*****AN ACT ADOPTING THE UNIFORM UNSWORN FOREIGN DECLARATIONS ACT.*****SUMMARY:**

This bill specifies how someone located outside the boundaries of the United States can make an unsworn declaration that will be given the same effect as a sworn declaration required or permitted by state law. It also expands the crime of perjury to include false statements in unsworn declarations made under the bill's provisions.

Under the bill, an "unsworn declaration" is a declaration in a signed record that is not under oath but is given subject to the penalty for perjury. A "sworn declaration" is a declaration in a signed record under oath and includes a sworn statement, verification, certificate, or affidavit.

EFFECTIVE DATE: October 1, 2010

LOCATION FOR MAKING AN UNSWORN DECLARATION

The bill applies to an unsworn declaration made by someone physically outside the boundaries of the United States. It defines the "boundaries of the United States" as the geographic boundaries of the United States, Puerto Rico, the U.S. Virgin Islands, and any territory or insular possession subject to U.S. jurisdiction.

The bill applies regardless of whether the location is subject to the jurisdiction of the United States, but it does not apply to someone physically located on property within the boundaries of the United States and subject to the jurisdiction of another country or a federally recognized Indian tribe.

FORM OF UNSWORN DECLARATION

The bill requires the unsworn declaration to be signed and dated and substantially as follows:

I declare under penalty of perjury under the law of Connecticut that the foregoing is true and correct, and that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

If a state law requires a sworn declaration in a particular medium, the bill requires the unsworn declaration to be in the same medium.

PERJURY

The bill expands the crime of perjury to include intentionally making a false statement or swearing, affirming, or testifying falsely to a material statement the person does not believe to be true in an unsworn declaration made under the bill's provisions. By law, perjury is a class D felony punishable by up to five years in prison, a fine of up to \$5,000, or both.

DEFINITIONS

Under the bill, a "record" is information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form. "Sign" means, with present intent to authenticate or adopt a record, to (1) execute or adopt a tangible symbol or (2) attach to or logically associate with the record an electronic symbol, sound, or process.

"Law" includes the federal or state constitutions and statutes; judicial decisions or orders; rules of court; executive orders; and administrative rules, regulations, and orders.

A "state " means any U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and any territory or insular possession

subject to U.S. jurisdiction.

FEDERAL LAW

The bill specifies that it modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 USC § 7001 *et seq*). But the bill also specifies that it does not modify, limit, or supersede consumer protections specified in federal law (15 USC § 7001(c)), nor does it authorize electronic delivery of the notices described in 15 USC § 7003(b) (see BACKGROUND).

PROMOTING UNIFORMITY

The bill provides that in applying and construing its provisions, consideration must be given to the need to promote uniformity of the law on its subject matter among states that enact these uniform provisions.

BACKGROUND

Electronic Signatures in Global and National Commerce Act

On June 30, 2000, Congress enacted the Electronic Signatures in Global and National Commerce Act to facilitate the use of electronic records and signatures in interstate and foreign commerce by ensuring the validity and legal effect of contracts entered into electronically (15 USC § 7001 *et seq.*).

This law allows a state statute to modify, limit, or supersede it only if the state law:

1. constitutes an enactment or adoption of the Uniform Electronic Transactions Act or
2. specifies the alternative procedures or requirements for the use or acceptance (or both) of electronic records or electronic signatures to establish the legal effect, validity, or enforceability when they satisfy certain standards and the state law makes specific reference to this act.

Consumer Protections in 15 USC § 7001(c)

If a statute, regulation, or other rule requires that information relating to any transaction in or affecting interstate or foreign commerce be provided or made available to a consumer in writing, the use of an electronic record to provide or make available (whichever is required) such information satisfies the requirement that the information be in writing if the following conditions, among others, are satisfied:

1. the consumer has affirmatively consented to such use and has not withdrawn such consent;
2. the consumer, before consenting, is provided with a clear and conspicuous statement that satisfies certain requirements, and is provided with a statement of the hardware and software requirements for access to and retention of the electronic records; and
3. the consumer consents or confirms consent electronically, in a way that reasonably demonstrates that he or she can access information in the electronic form that will be used to provide the information that is the subject of the consent.

Notices Listed in 15 USC § 7003(b)

This federal law specifies the following types of notices:

1. court notices, required to be executed in connection with court proceedings;
2. notices about the cancellation or termination of utility services;
3. default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or rental agreement for, an individual's primary residence;
4. the cancellation or termination of health or life insurance benefits; and
5. the recall or material failure of a product that risks health or

safety.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 42 Nay 0 (03/29/2010)