

CHAPTER 115

PROFESSIONS AND OCCUPATIONS

HOUSE BILL 09-1190

BY REPRESENTATIVE(S) Levy, Gardner B., McGihon, Ryden, Todd;
also SENATOR(S) Mitchell.

AN ACT

CONCERNING THE ENACTMENT OF THE "UNIFORM UNSWORN FOREIGN DECLARATIONS ACT".

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 55 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 3
UNIFORM UNSWORN FOREIGN DECLARATIONS ACT

12-55-301. Short title. THIS PART 3 MAY BE CITED AS THE "UNIFORM UNSWORN FOREIGN DECLARATIONS ACT".

12-55-302. Definitions. IN THIS PART 3:

(1) "BOUNDARIES OF THE UNITED STATES" MEANS 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.

(2) "LAW" INCLUDES THE FEDERAL OR A STATE CONSTITUTION, A FEDERAL OR STATE STATUTE, A JUDICIAL DECISION OR ORDER, A RULE OF COURT, AN EXECUTIVE ORDER, AND AN ADMINISTRATIVE RULE, REGULATION, OR ORDER.

(3) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS RETRIEVABLE IN PERCEIVABLE FORM.

(4) "SIGN" MEANS, WITH PRESENT INTENT TO AUTHENTICATE OR ADOPT A RECORD:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(A) TO EXECUTE OR ADOPT A TANGIBLE SYMBOL; OR

(B) TO ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN ELECTRONIC SYMBOL, SOUND, OR PROCESS.

(5) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

(6) "SWORN DECLARATION" MEANS A DECLARATION IN A SIGNED RECORD GIVEN UNDER OATH. THE TERM INCLUDES A SWORN STATEMENT, VERIFICATION, CERTIFICATE, AND AFFIDAVIT.

(7) "UNSWORN DECLARATION" MEANS A DECLARATION IN A SIGNED RECORD THAT IS NOT GIVEN UNDER OATH, BUT IS GIVEN UNDER PENALTY OF PERJURY.

12-55-303. Applicability. THIS PART 3 APPLIES TO AN UNSWORN DECLARATION BY A DECLARANT WHO AT THE TIME OF MAKING THE DECLARATION IS PHYSICALLY LOCATED OUTSIDE THE BOUNDARIES OF THE UNITED STATES WHETHER OR NOT THE LOCATION IS SUBJECT TO THE JURISDICTION OF THE UNITED STATES. THIS PART 3 DOES NOT APPLY TO A DECLARATION BY A DECLARANT WHO IS PHYSICALLY LOCATED ON PROPERTY THAT IS WITHIN THE BOUNDARIES OF THE UNITED STATES AND SUBJECT TO THE JURISDICTION OF ANOTHER COUNTRY OR A FEDERALLY RECOGNIZED INDIAN TRIBE.

12-55-304. Validity of unsworn declaration. (a) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (b) OF THIS SECTION, IF A LAW OF THIS STATE REQUIRES OR PERMITS USE OF A SWORN DECLARATION, AN UNSWORN DECLARATION MEETING THE REQUIREMENTS OF THIS PART 3 HAS THE SAME EFFECT AS A SWORN DECLARATION.

(b) THIS PART 3 DOES NOT APPLY TO:

(1) A DEPOSITION;

(2) AN OATH OF OFFICE;

(3) AN OATH REQUIRED TO BE GIVEN BEFORE A SPECIFIED OFFICIAL OTHER THAN A NOTARY PUBLIC;

(4) A DECLARATION TO BE RECORDED PURSUANT TO ARTICLE 35 OF TITLE 38, C.R.S., FOR THE PURPOSES OF CONVEYING AND RECORDING TITLE TO REAL PROPERTY OR A DECLARATION REQUIRED TO BE RECORDED FOR PURPOSES OF REGISTERING TITLE TO REAL PROPERTY PURSUANT TO ARTICLE 36 OF TITLE 38, C.R.S.; OR

(5) AN OATH REQUIRED BY SECTION 15-11-504, C.R.S., FOR A SELF-PROVED WILL.

12-55-305. Required medium. IF A LAW OF THIS STATE REQUIRES THAT A SWORN DECLARATION BE PRESENTED IN A PARTICULAR MEDIUM, AN UNSWORN DECLARATION MUST BE PRESENTED IN THAT MEDIUM.

12-55-306. Form of unsworn declaration. AN UNSWORN DECLARATION UNDER THIS PART 3 MUST BE IN SUBSTANTIALLY THE FOLLOWING FORM:

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAW OF COLORADO 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.

EXECUTED ON THE _____ DAY OF _____, _____,
(DATE) (MONTH) (YEAR)

AT _____
(CITY OR OTHER LOCATION, AND STATE) (COUNTRY)

(PRINTED NAME)

(SIGNATURE)

12-55-307. Uniformity of application and construction. IN APPLYING AND CONSTRUING THIS UNIFORM ACT, CONSIDERATION MUST BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG STATES THAT ENACT IT.

12-55-308. Relation to electronic signatures in global and national commerce act. THIS PART 3 MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL "ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT", 15 U.S.C. SEC. 7001, ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION 101 (c) OF THAT ACT, 15 U.S.C. SEC. 7001 (c), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103 (b) OF THAT ACT, 15 U.S.C. SEC. 7003 (b).

SECTION 2. 18-8-501 (2), Colorado Revised Statutes, is amended to read:

18-8-501. Definitions. The definitions in sections 18-8-101 and 18-8-301 are applicable to this part 5, and, in addition to those definitions:

(2) (a) "Oath" includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated. For the purposes of this section, written statements shall also be treated as if made under oath if:

(I) The statement was made on or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable; or

(II) The statement recites that it was made under oath, the declarant was aware of such recitation at the time he made the statement and intended that the statement should be represented as a sworn statement, and the statement was in fact so represented by its delivery or utterance with the signed jurat of an officer authorized to administer oaths appended thereto; or

(III) The statement is made, used, or offered with the intent that it be accepted as

compliance with a statute, rule, or regulation which requires a statement under oath or other like form of attestation to the truth of the matter contained in the statement;
OR

(IV) THE STATEMENT MEETS THE REQUIREMENTS FOR AN UNSWORN DECLARATION UNDER THE "UNIFORM UNSWORN FOREIGN DECLARATIONS ACT", PART 3 OF ARTICLE 55 OF TITLE 12, C.R.S.

(b) An oath is "required or authorized by law" when the use of the oath is specifically provided for by statute, court rule, or appropriate regulatory provision.

SECTION 3. Inclusion of official comments. There shall be included in the publication of the "Uniform Unsworn Foreign Declarations Act", as nonstatutory matter, following each section of part 3 of article 55 of title 12, Colorado Revised Statutes, the full text of the official comments to that section contained in the official volume containing the 2008 official text of the "Uniform Unsworn Foreign Declarations Act" issued by the national conference of commissioners on uniform state laws, with any changes in the official comments or Colorado comments to correspond to Colorado changes in the uniform act. The revisor of statutes shall prepare the comments for approval by the committee on legal services for publication.

SECTION 4. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 5, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 16, 2009