

1 HOUSE BILL 147

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Zachary J. Cook

5
6
7
8
9
10 AN ACT

11 RELATING TO UNSWORN DECLARATIONS; EXTENDING THE LAWS REGARDING
12 UNSWORN DECLARATIONS TO DECLARANTS WITHIN THE UNITED STATES;
13 CONFORMING NEW MEXICO'S UNSWORN DECLARATIONS LAWS TO THE
14 UNIFORM UNSWORN DECLARATIONS ACT AND THE NEW MEXICO CIVIL
15 PROCEDURE RULES.

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

18 SECTION 1. Section 44-10-1 NMSA 1978 (being Laws 2009,
19 Chapter 78, Section 1) is amended to read:

20 "44-10-1. SHORT TITLE.--~~[Sections 1 through 8 of this~~
21 ~~act]~~ Chapter 44, Article 10 NMSA 1978 may be cited as the
22 "Uniform Unsworn [~~Foreign~~] Declarations Act"."

23 SECTION 2. Section 44-10-2 NMSA 1978 (being Laws 2009,
24 Chapter 78, Section 2) is amended to read:

25 "44-10-2. DEFINITIONS.--As used in the Uniform Unsworn

.210862.2

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 [Foreign] Declarations Act:

2 [A. ~~"boundaries of the United States"~~ means the
3 ~~geographic boundaries of the United States, Puerto Rico, the~~
4 ~~United States Virgin Islands and any territory or insular~~
5 ~~possession subject to the jurisdiction of the United States;~~

6 B.] A. "law" includes the federal or a state
7 constitution, a federal or state statute, a judicial decision
8 or order, a rule of court, an executive order and an
9 administrative rule, regulation or order;

10 [G.] B. "record" means information that is
11 inscribed on a tangible medium or that is stored in an
12 electronic or other medium and is retrievable in perceivable
13 form;

14 [D.] C. "sign" means, with present intent to
15 authenticate or adopt a record:

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

17 (2) to attach to or logically associate with
18 the record an electronic symbol, sound or process;

19 [E.] D. "state" means a state of the United States,
20 the District of Columbia, Puerto Rico, the United States Virgin
21 Islands or any territory or insular possession subject to the
22 jurisdiction of the United States;

23 [F.] E. "sworn declaration" means a declaration in
24 a signed record given under oath. The term includes a sworn
25 statement, verification, certificate and affidavit; and

.210862.2

underscored material = new
[bracketed material] = delete

1 [~~G-~~] F. "unsworn declaration" means a declaration
2 in a signed record that is not given under oath, but is given
3 under penalty of perjury."

4 **SECTION 3.** Section 44-10-3 NMSA 1978 (being Laws 2009,
5 Chapter 78, Section 3) is amended to read:

6 "44-10-3. **APPLICABILITY.**--The Uniform Unsworn [~~Foreign~~]
7 Declarations Act applies to:

8 A. an unsworn declaration by a declarant who at the
9 time of making the declaration is physically located within or
10 outside the boundaries of the United States whether or not the
11 location is subject to the jurisdiction of the United States
12 [~~The Uniform Unsworn Foreign Declarations Act does not apply to~~
13 ~~a declaration by a declarant who is physically located on~~
14 ~~property that is within the boundaries of the United States and~~
15 ~~subject to the jurisdiction of another country or a federally~~
16 ~~recognized Indian tribe];~~

17 B. an unsworn declaration made on or after July 1,
18 2019;

19 C. a judicial proceeding commenced on or after July
20 1, 2019; or

21 D. a judicial proceeding commenced before July 1,
22 2019, unless the court finds that a provision of the Uniform
23 Unsworn Declarations Act would substantially interfere with the
24 effective conduct of the judicial proceeding or would prejudice
25 the rights of a party, in which case, the superseded law shall

underscored material = new
[bracketed material] = delete

1 apply."

2 SECTION 4. Section 44-10-4 NMSA 1978 (being Laws 2009,
3 Chapter 78, Section 4) is amended to read:

4 "44-10-4. VALIDITY OF UNSWORN DECLARATION.--

5 A. Except as otherwise provided in Subsection B of
6 this section, if a law of New Mexico requires or permits use of
7 a sworn declaration, an unsworn declaration meeting the
8 requirements of the Uniform Unsworn [~~Foreign~~] Declarations Act
9 has the same effect as a sworn declaration.

10 B. The Uniform Unsworn [~~Foreign~~] Declarations Act
11 does not apply to:

- 12 (1) a deposition;
- 13 (2) an oath of office;
- 14 (3) an oath required to be given before a
15 specified official other than a notary public;
- 16 (4) a declaration to be recorded in records
17 affecting real property pursuant to Section 14-8-4 or 14-9-1
18 [~~or 14-9-7~~] NMSA 1978; or
- 19 (5) an oath required for self-proved wills by
20 Section 45-2-504 NMSA 1978."

21 SECTION 5. Section 44-10-6 NMSA 1978 (being Laws 2009,
22 Chapter 78, Section 6) is amended to read:

23 "44-10-6. FORM OF UNSWORN DECLARATION.--An unsworn
24 declaration pursuant to the Uniform Unsworn [~~Foreign~~]
25 Declarations Act shall be in substantially the following form:

.210862.2

underscored material = new
[bracketed material] = delete

1 "I declare under penalty of perjury under the [~~law~~] laws
2 of the State of New Mexico that the foregoing is true and
3 correct. [~~and that I am physically located outside the~~
4 ~~geographic boundaries of the United States, Puerto Rico, the~~
5 ~~United States Virgin Islands and any territory or insular~~
6 ~~possession subject to the jurisdiction of the United States.~~

7 Executed] Signed on the _____ day of _____,
8 [at] _____
9 (date) (month) (year)

10 [_____,
11 ~~(city or other location, and state)~~
12 _____.
13 ~~(country)~~

14 _____
15 [~~(printed name)~~] (signature)
16 _____
17 [~~(signature)~~] (printed or typed name)."

18 SECTION 6. Section 44-10-7 NMSA 1978 (being Laws 2009,
19 Chapter 78, Section 7) is amended to read:

20 "44-10-7. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In
21 applying and construing the Uniform Unsworn [~~Foreign~~]
22 Declarations Act, consideration shall be given to the need to
23 promote uniformity of the law with respect to its subject
24 matter among states that enact it."

25 SECTION 7. Section 44-10-8 NMSA 1978 (being Laws 2009,

underscoring material = new
~~[bracketed material]~~ = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Chapter 78, Section 8) is amended to read:

"44-10-8. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform Unsworn ~~[Foreign]~~ Declarations Act modifies, limits ~~[and]~~ or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b)."

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.