



AN ACT ADOPTING THE UNIFORM UNSWORN FOREIGN DECLARATIONS ACT; CLARIFYING APPLICABILITY OF UNSWORN DECLARATIONS; PROVIDING FOR VALIDATION OF UNSWORN DECLARATIONS; PROVIDING A FORM FOR UNSWORN DECLARATIONS; AND CLARIFYING THE LEGAL AUTHORITY WITH RESPECT TO ELECTRONIC SIGNATURES UNDER THIS ACT WITH RESPECT TO FEDERAL LAW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. [Sections 1 through 8] may be cited as the "Uniform Unsworn Foreign Declarations Act".

Section 2. Definitions. In [sections 1 through 8]:

(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:

(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.

Section 3. Applicability. [Sections 1 through 8] apply 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. [Sections 1 through 8] do 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.

Section 4. Validity of unsworn declaration. (1) Except as otherwise provided in subsection (2), if a law of this state requires or permits use of a sworn declaration, an unsworn declaration meeting the requirements of [sections 1 through 8] have the same effect as a sworn declaration.

(2) [Sections 1 through 8] do not apply to:

- (a) a deposition;
- (b) an oath of office;
- (c) an oath required to be given before a specified official other than a notary public;
- (d) a declaration to be recorded pursuant to Title 70; or
- (e) an oath required for a self-proved will under 72-2-524.

Section 5. 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.

Section 6. Form of unsworn declaration. An unsworn declaration under [sections 1 through 8] must be in substantially the following form:

I declare under penalty of perjury under the law of Montana 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 (date) day of (month), (year), at(city or other location, and state),..... (country).

..... (printed name)

..... (signature)

Section 7. Uniformity of application and construction. In applying and construing [sections 1 through 8], consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 8. Relation to Electronic Signatures in Global and National Commerce Act. [Sections 1 through 8] modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001, et seq., but do not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).

Section 9. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 26, chapter 1, and the provisions of Title 26, chapter 1, apply to [sections 1 through 8].

- END -

I hereby certify that the within bill,
SB 0354, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2011.

Speaker of the House

Signed this _____ day
of _____, 2011.

SENATE BILL NO. 354
INTRODUCED BY L. JENT

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