

COMMITTEE BILL ANALYSIS

Bill: House Bill 25

Printer's No.: 1551

Sponsor: Representative Grell

Prepared by: Gregg Warner

Synopsis: This bill amends the Judicial Code, Title 42 of the Pennsylvania Consolidated Statutes, to enact the Uniform Unsworn Foreign Declarations Act, and Title 57 (Notaries Public) to enact the Revised Uniform Law on Notarial Acts.

Summary:

Uniform Unsworn Foreign Declarations Act

Chapter 62 is added to the Judicial Code to enact this uniform act. The new chapter 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. The chapter sets forth a procedure to allow an unsworn declaration, executed outside the United States, to be used within Pennsylvania.

If a law of Pennsylvania requires or permits the use of a sworn declaration, an unsworn declaration meeting the requirements of this chapter has the same effect as a sworn declaration. If the law requires that a sworn declaration be presented in a particular medium, an unsworn declaration must be presented in that medium.

The chapter does not apply to a deposition; an oath of office; an oath or affirmation required to be given before a specified official other than a notary public; a declaration relating to real property required to be recorded; or an oath or affirmation required for self-proved wills.

The bill provides a form that the unsworn declaration must substantially meet.

Revised Uniform Law on Notarial Acts

In enacting the uniform act the bill codifies provisions relating to notaries in Title 57 and repeals existing laws relating to notaries.

Chapter 3 sets forth the requirement that a notary public must determine that the person coming before the notary has the identity of the person claimed and that the signature is valid. Further, with respect to copies of records, the notary must determine the copy is a complete and accurate representation of the original.

A notary may determine the identity of the person by using documents, including a passport, a driver's license, or another form of government identification. Notaries may refuse to perform a notarial act if they are not satisfied that the person coming before them is competent, or that the person's signature is not knowingly or voluntarily made, or that the person coming before them is the person claimed.

A notarial act performed outside of Pennsylvania or under federal authority will be recognized within Pennsylvania. Further, notarial acts shall be evidenced by a certificate and a stamp. A notary shall keep a journal to record the date and time of the notarial act. The notary must deliver the journal to the Recorder of Deeds within 30 days of the expiration, revocation or resignation of the notary's commission.

The chapter sets forth the qualifications for becoming a notary public. An applicant applies to the Department of State. Before receiving a commission, the person must obtain a bond in the amount of \$10,000 or the amount set by regulation of the department. The Department of State issues a commission that lasts four years. An applicant must complete at least a three-hour course of basic instruction within the six months preceding application. Basic education must cover statutes, regulations, procedures and ethics relevant to notarial acts. A notary public who applies for the renewal of a commission must complete at least three hours of continuing education approved by the department.

The Department of State may investigate alleged violations by notaries public. Prohibited acts include: (1) assisting in the drafting of legal documents or providing legal advice; (2) acting as an expert on immigration matters; (3) representing a person in a judicial or an administrative proceeding relating to immigration; or (4) receiving compensation for any of these activities.

A commission of a notary public in effect on the effective date of this chapter continues until expiration. However, a notary public, when performing notarial acts, must comply with the provisions of this chapter.

Effective date

The authority of the Department of State to approve courses for notaries takes effect immediately. The addition of 42 Pa.C.S. Ch. 62, relating to the Uniform Unsworn Foreign Declarations Act, takes effect in 60 days. The remainder of the act takes effect 180 days after the department publishes notice of the approval of the courses.

Background: The House of Representatives passed House Bill 25 on May 7, 2013 by a vote of 197 to 0.

Current law

Currently the principal statute which governs notaries is the Notary Public Law, 1953 Act 373. The Notary Public Law and other existing laws relating to notaries are repealed in favor of codifying the provisions into Title 57 of the Pennsylvania Consolidated Statutes.

Uniform acts

The Uniform Law Commission adopted the Unsworn Foreign Declarations Act in 2008. Nineteen states and the District of Columbia have enacted the act.

The Uniform Law Commission adopted the Law on Notarial Acts, Revised in 2010. Three states have enacted the act.

Legislative history

During the 2011-2012 session this legislation was introduced as House Bill 2275. The House of Representatives passed House Bill 2275 by a vote of 198 to 0. The Senate Judiciary Committee reported House Bill 2275 from committee. The Senate re-referred the bill to the Senate Appropriations Committee where it remained for the rest of the session.