

FOR CONSIDERATION By the Committee on Judiciary

590-00935A-19

20197006pb

1                                   A bill to be entitled  
2       An act relating to the Uniform Interstate Depositions  
3       and Discovery Act; amending s. 92.251, F.S.; revising  
4       a short title; defining terms; requiring a party to  
5       submit a foreign subpoena to a clerk of court in this  
6       state for the issuance of a subpoena in this state;  
7       requiring the clerk of court to promptly issue a  
8       subpoena for service upon the person to whom the  
9       foreign subpoena is directed; providing requirements  
10      for the subpoena; requiring that the service of the  
11      subpoena be served in compliance with the laws of this  
12      state and the Florida Rules of Civil Procedure;  
13      specifying that laws and rules governing compliance  
14      with subpoenas apply to subpoenas issued pursuant to  
15      the act; requiring that applications challenging a  
16      subpoena issued pursuant to the act comply with the  
17      statutes and rules of this state and be submitted to a  
18      specified court; providing for the uniform  
19      construction and application of the act; specifying  
20      that the act does not apply to criminal proceedings;  
21      providing applicability; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25       Section 1. Section 92.251, Florida Statutes, is amended to  
26       read:

27       92.251 Uniform Foreign Depositions Law.—

28       (1) SHORT TITLE.—This section may be cited as the "Uniform  
29       Interstate Foreign Depositions and Discovery Act Law."

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30 (2) DEFINITIONS.—As used in this section, the term:

31 (a) "Foreign jurisdiction" means a state other than this  
 32 state.

33 (b) "Foreign subpoena" means a subpoena issued under  
 34 authority of a court of record of a foreign jurisdiction.

35 (c) "Person" means an individual, corporation, business  
 36 trust, estate, trust, partnership, limited liability company,  
 37 association, joint venture, public corporation, government, or  
 38 governmental subdivision, agency or instrumentality, or any  
 39 other legal or commercial entity.

40 (d) "State" means a state of the United States, the  
 41 District of Columbia, Puerto Rico, the United States Virgin  
 42 Islands, a federally recognized Indian tribe, or any territory  
 43 or insular possession subject to the jurisdiction of the United  
 44 States.

45 (e) "Subpoena" means a document, however denominated,  
 46 issued under authority of a court of record requiring a person  
 47 to:

- 48 1. Attend and give testimony at a deposition;
- 49 2. Produce and permit inspection and copying of designated  
 50 books, documents, records, electronically stored information, or  
 51 tangible things in the possession, custody, or control of the  
 52 person; or
- 53 3. Permit inspection of premises under the control of the  
 54 person.

55 (3) ISSUANCE OF SUBPOENA.—

56 (a) To request issuance of a subpoena under this section, a  
 57 party from a foreign jurisdiction must submit a foreign subpoena  
 58 to a clerk of court in the county in this state in which

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59 discovery is sought. A request for the issuance of a subpoena  
60 under this act does not constitute an appearance in the courts  
61 of this state.

62 (b) When a party submits a foreign subpoena to a clerk of  
63 court in this state, the clerk, in accordance with that court's  
64 procedure, shall promptly issue a subpoena for service upon the  
65 person to which the foreign subpoena is directed.

66 (c) A subpoena pursuant to paragraph (b) shall:

67 1. Incorporate the terms used in the foreign subpoena; and  
68 2. Contain or be accompanied by the names, addresses, and  
69 telephone numbers of all counsel of record in the proceeding to  
70 which the subpoena relates and of any party not represented by  
71 counsel.

72 (4) SERVICE OF SUBPOENA.—A subpoena issued by a clerk of  
73 court under subsection (3) must be served in compliance with the  
74 laws of this state and the Florida Rules of Civil Procedure.

75 (5) DEPOSITION, PRODUCTION, AND INSPECTION.—The laws and  
76 rules of this state govern and apply to all subpoenas issued  
77 under subsection (3).

78 (6) APPLICATION TO COURT.—An application to the court for a  
79 protective order or to enforce, quash, or modify a subpoena  
80 issued by a clerk of court under subsection (3) must comply with  
81 the statutes and rules of this state and be submitted to the  
82 court in the county in which discovery is to be conducted.

83 (7) UNIFORMITY OF APPLICATION AND CONSTRUCTION.—In applying  
84 and construing this uniform act, consideration must be given to  
85 the need to promote uniformity of the law with respect to its  
86 subject matter among states that enact it.

87 (8) INAPPLICABILITY TO CRIMINAL PROCEEDINGS.—This act does

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88 not apply to criminal proceedings.

89 ~~(2) Whenever any mandate, writ or commission is issued out~~  
90 ~~of any court of record in any other state, territory, district,~~  
91 ~~or foreign jurisdiction, or whenever upon notice or agreement it~~  
92 ~~is required to take the testimony of a witness or witnesses in~~  
93 ~~this state, witnesses may be compelled to appear and testify in~~  
94 ~~the same manner and by the same process and proceeding as may be~~  
95 ~~employed for the purpose of taking testimony in proceedings~~  
96 ~~pending in this state.~~

97 ~~(3) This section shall be so interpreted and construed as~~  
98 ~~to effectuate its general purposes to make uniform the law of~~  
99 ~~those states which enact it.~~

100 Section 2. This act applies to requests for discovery in  
101 all proceedings pending or commenced on or after July 1, 2019.

102 Section 3. This act shall take effect July 1, 2019.