

1 HB399
2 135457-1
3 By Representative DeMarco
4 RFD: Judiciary
5 First Read: 23-FEB-12

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8 SYNOPSIS: This bill would provide for the Uniform
9 Interstate Depositions and Discovery Act. The bill
10 would: Allow litigants in another state to depose
11 individuals and conduct discovery in this state;
12 allow litigants to present a circuit clerk of the
13 county where discoverable materials are sought with
14 a subpoena issued by a court in the trial state;
15 and would require the clerk to issue a subpoena in
16 this state which would be treated the same as any
17 other subpoena in this state.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
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23 To provide for the Uniform Interstate Depositions
24 and Discovery Act; to allow litigants in another state to
25 depose individuals and conduct discovery in this state; to
26 allow litigants to present a circuit clerk of the county where
27 discoverable materials are sought with a subpoena issued by a

1 court in the trial state; and to require the clerk to issue a
2 subpoena in this state that would be treated the same as any
3 other subpoena issued in this state.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. This act may be cited as the Alabama
6 Uniform Interstate Depositions and Discovery Act.

7 Section 2. In this act:

8 (1) "Foreign jurisdiction" means a state other than
9 this state.

10 (2) "Foreign subpoena" means a subpoena issued in a
11 civil action under authority of a court of record of a foreign
12 jurisdiction.

13 (3) "Person" means an individual, corporation,
14 business trust, estate, trust, partnership, limited liability
15 company, association, joint venture, public corporation,
16 government, or governmental subdivision, agency or
17 instrumentality, or any other legal or commercial entity.

18 (4) "State" means a state of the United States, the
19 District of Columbia, Puerto Rico, the United States Virgin
20 Islands, a federally recognized Indian tribe, or any territory
21 or insular possession subject to the jurisdiction of the
22 United States.

23 (5) "Subpoena" means a document, however
24 denominated, issued in a civil action under authority of a
25 court of record requiring a person to:

26 (A) Attend and give testimony at a deposition.

1 (B) Produce and permit inspection and copying of
2 designated books, documents, records, electronically stored
3 information, or tangible things in the possession, custody, or
4 control of the person.

5 (C) Permit inspection of premises under the control
6 of the person.

7 Section 3. (a) To request issuance of a subpoena
8 under this section, a party must submit a foreign subpoena to
9 a clerk of the circuit court in the county in which discovery
10 is sought to be conducted in this state. A request for the
11 issuance of a subpoena under this act does not constitute an
12 appearance in the courts of this state.

13 (b) When a party submits a foreign subpoena to a
14 clerk of the circuit court in this state, the clerk, in
15 accordance with that court's procedure, shall promptly issue a
16 subpoena for service upon the person to which the foreign
17 subpoena is directed.

18 (c) A subpoena under subsection (b) must:

19 (1) Incorporate the terms used in the foreign
20 subpoena.

21 (2) Contain or be accompanied by the names,
22 addresses, and telephone numbers of all counsel of record in
23 the proceeding to which the subpoena relates and of any party
24 not represented by counsel.

25 (3) Plainly and prominently state on its face: "THE
26 RECIPIENT OF THIS SUBPOENA HAS THE RIGHT TO OBJECT TO THIS
27 SUBPOENA WITHIN FIFTEEN (15) DAYS OF PROPER SERVICE BY

1 SUBMITTING A REASONABLY SPECIFIC WRITTEN OBJECTION TO THE
2 PARTY INITIATING THE SUBPOENA AS WELL AS THE LOCAL ISSUING
3 CLERK OF THE COURT AT THE FOLLOWING ADDRESS: [ADDRESS OF CLERK
4 OF COURT]."

5 Section 4. A subpoena issued by a clerk of court
6 under Section 3 must be served in compliance with Rule 45 of
7 the Alabama Rules of Civil Procedure.

8 Section 5. The Alabama Rules of Civil Procedure as
9 well as any applicable provision of the Code of Alabama 1975,
10 apply to subpoenas issued under Section 3. To the extent that
11 the provisions of Rule 28(b)(3) and subsection (c) of Rule 28
12 conflict with this act, those provisions are no longer
13 effective.

14 Section 6. An application to the court for a
15 protective order or to enforce, quash, or modify a subpoena
16 issued by a clerk of court under Section 3 must comply with
17 the rules or statutes of this state and must be submitted to
18 the circuit court in the county in which discovery is to be
19 conducted.

20 Section 7. In applying and construing this uniform
21 act, consideration shall be given to the need to promote
22 uniformity of the law with respect to its subject matter among
23 states that enact it.

24 Section 8. This act applies to requests for
25 discovery in cases pending on or filed after the effective
26 date of this act.

27 Section 9. This act takes effect January 1, 2013.

