

1 SB233  
2 135457-1  
3 By Senator Brooks  
4 RFD: Judiciary  
5 First Read: 07-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.

