

House Bill 2833

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Law Commission)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Adopts Uniform Unsworn Foreign Declarations Act.
Imposes criminal penalties for making false unsworn declarations.

A BILL FOR AN ACT

1
2 Relating to unsworn foreign declarations; creating new provisions; and amending ORS 162.055,
3 162.065 and 162.075.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Short title. Sections 1 to 8 of this 2013 Act may be cited as the Uniform**
6 **Unsworn Foreign Declarations Act.**

7 **SECTION 2. Definitions. As used in sections 1 to 8 of this 2013 Act:**

8 (1) **"Boundaries of the United States"** means the geographic boundaries of the United
9 States, Puerto Rico, the United States Virgin Islands and any territory or insular possession
10 subject to the jurisdiction of the United States.

11 (2) **"Law"** includes the federal or a state Constitution, a federal or state statute, a judi-
12 cial decision or order, a rule of court, an executive order and an administrative rule, regu-
13 lation or order.

14 (3) **"Record"** means information that is inscribed on a tangible medium or that is stored
15 in an electronic or other medium and is retrievable in perceivable form.

16 (4) **"Sign"** means, with present intent to authenticate or adopt a record:

17 (a) **To execute or adopt a tangible symbol; or**

18 (b) **To attach to or logically associate with the record an electronic symbol, sound or**
19 **process.**

20 (5) **"State"** means a state of the United States, the District of Columbia, Puerto Rico, the
21 United States Virgin Islands or any territory or insular possession subject to the jurisdiction
22 of the United States.

23 (6) **"Sworn declaration"** means a declaration in a signed record given under oath. **"Sworn**
24 **declaration"** includes a sworn statement, verification, certificate and affidavit.

25 (7) **"Unsworn declaration"** means a declaration in a signed record that is not given under
26 oath, but is given under penalty of perjury.

27 **SECTION 3. Applicability. (1) Sections 1 to 8 of this 2013 Act apply to an unsworn decla-**
28 **ration by a declarant who at the time of making the declaration is physically located outside**
29 **the boundaries of the United States whether or not the location is subject to the jurisdiction**
30 **of the United States.**

31 (2) **Sections 1 to 8 of this 2013 Act do not apply to a declaration by a declarant who is**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 physically located on property that is within the boundaries of the United States and subject
2 to the jurisdiction of another country or a federally recognized Indian tribe.

3 **SECTION 4. Validity of unsworn declaration.** (1) Except as otherwise provided in sub-
4 section (2) of this section, if a law of this state requires or permits use of a sworn declara-
5 tion, an unsworn declaration meeting the requirements of sections 1 to 8 of this 2013 Act
6 has the same effect as a sworn declaration.

7 (2) Sections 1 to 8 of this 2013 Act do not apply to:

8 (a) A deposition;

9 (b) An oath of office;

10 (c) An oath required to be given before a specified official other than a notary public;

11 (d) A declaration to be recorded pursuant to the recording laws of this state, including
12 but not limited to ORS 205.130 and ORS chapters 92, 93, 94, 100 and 105; or

13 (e) An oath required by ORS 113.055 (1).

14 **SECTION 5. Required medium.** If a law of this state requires that a sworn declaration
15 be presented in a particular medium, an unsworn declaration must be presented in that
16 medium.

17 **SECTION 6. Form of unsworn declaration.** An unsworn declaration under sections 1 to
18 8 of this 2013 Act must be in substantially the following form:

19 _____
20
21 I declare under penalty of perjury under the law of Oregon that the foregoing is true and
22 correct, and that I am physically located outside the geographic boundaries of the United
23 States, Puerto Rico, the United States Virgin Islands and any territory or insular possession
24 subject to the jurisdiction of the United States.

25
26 Executed on the ____ day of _____, _____, at _____, (date) (month)
27 (year) (city or other location, and state)

28 _____
29 (country)

30 _____
31 (printed name)

32 _____
33 (signature)

34 _____
35
36 **SECTION 7. Uniformity of application and construction.** In applying and construing
37 sections 1 to 8 of this 2013 Act, consideration must be given to the need to promote uni-
38 formity of the law with respect to its subject matter among the states that enact it.

39 **SECTION 8. Relation to Electronic Signatures in Global and National Commerce Act.**
40 Sections 1 to 8 of this 2013 Act modify, limit and supersede the federal Electronic Signatures
41 in Global and National Commerce Act, 15 U.S.C. 7001, et seq., but do not modify, limit or
42 supersede 15 U.S.C. 7001(c) or authorize electronic delivery of any of the notices described
43 in 15 U.S.C. 7003(b).

44 **SECTION 9.** ORS 162.055 is amended to read:

45 162.055. As used in ORS 162.055 to 162.425 and 162.465, unless the context requires otherwise:

1 (1) "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the
2 desire or consent of the beneficiary.

3 (2) "Material" means that which could have affected the course or outcome of any proceeding
4 or transaction. Whether a false statement is "material" in a given factual situation is a question of
5 law.

6 (3) "Statement" means any representation of fact and includes a representation of opinion, belief
7 or other state of mind where the representation clearly relates to state of mind apart from or in
8 addition to any facts which are the subject of the representation.

9 (4) "Sworn statement" means any statement that attests to the truth of what is stated and that
10 is knowingly given under any form of oath or affirmation or by declaration under penalty of perjury
11 as described in ORCP 1 E.

12 (5) **"Unsworn declaration" has the meaning given that term in section 2 of this 2013 Act.**

13 **SECTION 10.** ORS 162.065 is amended to read:

14 162.065. (1) A person commits the crime of perjury if the person makes a false sworn statement
15 **or a false unsworn declaration** in regard to a material issue, knowing it to be false.

16 (2) Perjury is a Class C felony.

17 **SECTION 11.** ORS 162.075 is amended to read:

18 162.075. (1) A person commits the crime of false swearing if the person makes a false sworn
19 statement **or a false unsworn declaration**, knowing it to be false.

20 (2) False swearing is a Class A misdemeanor.

21 **SECTION 12.** **The section captions used in this 2013 Act are provided only for the con-**
22 **venience of the reader and do not become part of the statutory law of this state or express**
23 **any legislative intent in the enactment of this 2013 Act.**

24 **SECTION 13.** **Sections 1 to 8 of this 2013 Act and the amendments to ORS 162.055, 162.065**
25 **and 162.075 by sections 9 to 11 of this 2013 Act apply to unsworn declarations made on or**
26 **after the effective date of this 2013 Act.**

27