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Chapter No. 347

11/SS01/R333

JW / RS/SG

SENATE BILL NO. 2264

Originated in Senate

Henri Kuyner

Secretary

SENATE BILL NO. 2264

AN ACT TO CREATE THE UNIFORM DEPOSITIONS AND DISCOVERY ACT; TO ENACT DEFINITIONS; TO PROVIDE FOR INTERSTATE ISSUANCE OF SUBPOENAE; TO PROVIDE FOR SERVICE OF SUBPOENAE; TO PROVIDE FOR APPLICATION OF THE RULES OF CIVIL PROCEDURE TO SUBPOENAE ISSUED UNDER THE ACT; TO PROVIDE FOR APPLICATION TO ENFORCE, QUASH OR MODIFY; TO PROVIDE FOR EFFECTIVENESS IN PENDING PROCEEDINGS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Short title. This act may be cited as the Uniform Interstate Depositions and Discovery Act.

SECTION 2. Definitions. In this act:

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

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

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

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

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

(A) Attend and give testimony at a deposition;

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

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

SECTION 3. **Issuance of subpoena.** (a) To request issuance of a subpoena under this section, a party must submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in this state. A request for the issuance of a subpoena under this act does not constitute an appearance in the courts of this state.

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

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

(A) Incorporate the terms used in the foreign subpoena; and

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

SECTION 4. **Service of subpoena.** A subpoena issued by a clerk of court under Section 3 must be served in compliance with Rule 45 of the Rules of Civil Procedure.

SECTION 5. **Deposition, production and inspection.** Rule 45 of the Mississippi Rules of Civil Procedure and Rule 2.01 of the Uniform Rules of Circuit and County Court Practice apply to subpoenas issued under Section 3.

SECTION 6. **Application to court.** An application to the court for a protective order or to enforce, quash or modify a subpoena issued by a clerk of court under Section 3 must comply

with the rules or statutes of this state and be submitted to the court in the county in which discovery is to be conducted.

SECTION 7. **Uniformity of application and construction.** In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 8. **Application to pending actions.** This act applies to requests for discovery in cases pending on July 1, 2011.

SECTION 9. This act shall take effect and be in force from and after July 1, 2011.

PASSED BY THE SENATE
February 8, 2011



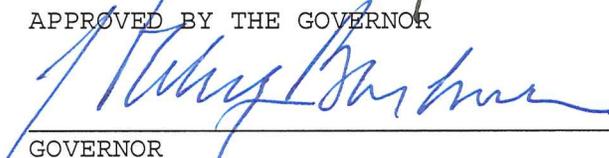
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 1, 2011



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

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