

SENATE BILL No. 689

September 20, 2011, Introduced by Senator SCHUITMAKER and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2102 (MCL 600.2102) and by adding chapter 21A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2102. ~~In cases where~~ **IF** by law the affidavit of ~~any~~ **A**
2 person residing in another state of the United States ~~, or in any~~
3 ~~foreign country,~~ is required ~~, or~~ may be received in **AN ACTION OR**
4 judicial ~~proceedings~~ **PROCEEDING** in this state, to entitle the ~~same~~
5 **AFFIDAVIT** to be read, it must be authenticated ~~as follows:~~

6 ~~—— (1) It must be certified by the consul general, deputy consul~~
7 ~~general, or some consul or deputy consul of the United States~~
8 ~~resident in such foreign country, to have been taken and subscribed~~
9 ~~before him, specifying the time and place where taken and have the~~
10 ~~consular seal attached, or~~

11 ~~—— (2) It must be~~ **BY BEING** certified by ~~some~~ **A** judge of a court

1 ~~having~~ **THAT HAS** a seal ~~to have~~ **AS HAVING** been taken and subscribed
 2 before ~~him~~ **THE JUDGE**, specifying the time and place where **THE**
 3 **AFFIDAVIT WAS** taken. +

4 (2) ~~(3)~~ The genuineness of the signature of ~~such~~ **A** judge **UNDER**
 5 **SUBSECTION (1)**, the existence of the court, and the fact that ~~such~~
 6 **THE** judge is a member ~~thereof~~ **OF THE COURT**, must be certified by
 7 the clerk of the court under the seal ~~thereof~~ **OF THE COURT**.

8 (4) If ~~such~~ **AN** affidavit ~~be~~ **IS** taken in ~~any other~~ **ANOTHER**
 9 **STATE OR TERRITORY** of the United States, ~~or in any territory~~
 10 ~~thereof~~, it may be taken before a commissioner ~~duly~~ appointed and
 11 commissioned by the governor of this state to take affidavits
 12 ~~therein~~ **IN THE OTHER STATE OR TERRITORY**, or before ~~any~~ **A** notary
 13 public or justice of the peace authorized by the laws of ~~such~~ **THE**
 14 **OTHER** state **OR TERRITORY** to administer oaths ~~therein~~ **IN THE OTHER**
 15 **STATE OR TERRITORY**. The signature of ~~such~~ **THE** notary public or
 16 justice of the peace, and the fact that at the time ~~of the taking~~
 17 ~~of such~~ affidavit **WAS TAKEN** the person before whom ~~the same~~ **IT** was
 18 taken was ~~such~~ **A** notary public or justice of the peace, ~~shall~~ **MUST**
 19 be certified by the clerk of any court of record in the county
 20 where ~~such~~ **THE** affidavit ~~shall be~~ **IS** taken, under the seal of ~~said~~
 21 **THE** court.

22 CHAPTER 21A

23 UNIFORM UNSWORN FOREIGN DECLARATIONS ACT

24 SEC. 2181. THIS CHAPTER MAY BE REFERRED TO AND CITED AS THE
 25 "UNIFORM UNSWORN FOREIGN DECLARATIONS ACT".

26 SEC. 2182. AS USED IN THIS CHAPTER:

27 (A) "BOUNDARIES OF THE UNITED STATES" MEANS THE GEOGRAPHIC

1 BOUNDARIES OF THE UNITED STATES, PUERTO RICO, THE UNITED STATES
2 VIRGIN ISLANDS, AND ANY TERRITORY OR INSULAR POSSESSION SUBJECT TO
3 THE JURISDICTION OF THE UNITED STATES.

4 (B) "LAW" INCLUDES THE FEDERAL OR A STATE CONSTITUTION, A
5 FEDERAL OR STATE STATUTE, A JUDICIAL DECISION OR ORDER, A COURT
6 RULE, AN EXECUTIVE ORDER, AND AN ADMINISTRATIVE RULE, REGULATION,
7 OR ORDER.

8 (C) "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE
9 MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS
10 RETRIEVABLE IN PERCEIVABLE FORM.

11 (D) "SIGN" MEANS TO DO EITHER OF THE FOLLOWING WITH PRESENT
12 INTENT TO AUTHENTICATE OR ADOPT A RECORD:

13 (i) EXECUTE OR ADOPT A TANGIBLE SYMBOL.

14 (ii) ATTACH TO OR LOGICALLY ASSOCIATE WITH THE RECORD AN
15 ELECTRONIC SYMBOL, SOUND, OR PROCESS.

16 (E) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT
17 OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, OR ANY
18 TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE
19 UNITED STATES.

20 (F) "SWORN DECLARATION" MEANS A DECLARATION IN A SIGNED RECORD
21 GIVEN UNDER OATH. SWORN DECLARATION INCLUDES A SWORN STATEMENT,
22 VERIFICATION, CERTIFICATE, AND AFFIDAVIT.

23 (G) "UNSWORN DECLARATION" MEANS A DECLARATION IN A SIGNED
24 RECORD THAT IS NOT GIVEN UNDER OATH, BUT IS GIVEN UNDER PENALTY OF
25 PERJURY.

26 SEC. 2183. THIS CHAPTER APPLIES TO AN UNSWORN DECLARATION BY A
27 DECLARANT WHO AT THE TIME OF MAKING THE DECLARATION IS PHYSICALLY

1 LOCATED OUTSIDE THE BOUNDARIES OF THE UNITED STATES WHETHER OR NOT
2 THE LOCATION IS SUBJECT TO THE JURISDICTION OF THE UNITED STATES.
3 THIS CHAPTER DOES NOT APPLY TO A DECLARATION BY A DECLARANT WHO IS
4 PHYSICALLY LOCATED ON PROPERTY THAT IS WITHIN THE BOUNDARIES OF THE
5 UNITED STATES AND SUBJECT TO THE JURISDICTION OF ANOTHER COUNTRY OR
6 A FEDERALLY RECOGNIZED INDIAN TRIBE.

7 SEC. 2184. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2),
8 IF A LAW OF THIS STATE REQUIRES OR PERMITS USE OF A SWORN
9 DECLARATION, AN UNSWORN DECLARATION MEETING THE REQUIREMENTS OF
10 THIS CHAPTER HAS THE SAME EFFECT AS A SWORN DECLARATION.

11 (2) THIS CHAPTER DOES NOT APPLY TO ANY OF THE FOLLOWING:

12 (A) A DEPOSITION.

13 (B) AN OATH OF OFFICE.

14 (C) AN OATH REQUIRED TO BE GIVEN BEFORE A SPECIFIED OFFICIAL
15 OTHER THAN A NOTARY PUBLIC.

16 (D) A DECLARATION TO BE RECORDED WITH A REGISTER OF DEEDS.

17 (E) AN OATH REQUIRED BY SECTION 2504 OF THE ESTATES AND
18 PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.2504.

19 SEC. 2185. IF A LAW OF THIS STATE REQUIRES THAT A SWORN
20 DECLARATION BE PRESENTED IN A PARTICULAR MEDIUM, AN UNSWORN
21 DECLARATION MUST BE PRESENTED IN THAT MEDIUM.

22 SEC. 2186. AN UNSWORN DECLARATION UNDER THIS CHAPTER MUST BE
23 IN SUBSTANTIALLY THE FOLLOWING FORM:

24 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE
25 OF MICHIGAN THAT THE FOREGOING IS TRUE AND CORRECT, AND THAT I AM
26 PHYSICALLY LOCATED OUTSIDE THE GEOGRAPHIC BOUNDARIES OF THE UNITED
27 STATES, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, AND ANY

1 TERRITORY OR INSULAR POSSESSION SUBJECT TO THE JURISDICTION OF THE
2 UNITED STATES.

3 EXECUTED ON THE _____ DAY OF _____, _____, AT
4 (DATE) (MONTH) (YEAR)

5 _____,
6 (CITY OR OTHER LOCATION, AND STATE) (COUNTRY)

7 _____
8 (PRINTED NAME)

9 _____
10 (SIGNATURE)

11 SEC. 2187. IN APPLYING AND CONSTRUING THIS CHAPTER,
12 CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF
13 THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG THE STATES THAT
14 ENACT THE UNIFORM UNSWORN FOREIGN DECLARATIONS ACT.

15 SEC. 2188. THIS ACT MODIFIES, LIMITS, AND SUPERSEDES THE
16 FEDERAL ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT,
17 15 USC 7001 TO 7031, EXCEPT THAT IT DOES NOT MODIFY, LIMIT, OR
18 SUPERSEDE SECTION 101(C) OF THE ELECTRONIC SIGNATURES IN GLOBAL AND
19 NATIONAL COMMERCE ACT, 15 USC 7001(C), OR AUTHORIZE ELECTRONIC
20 DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(B) OF THE
21 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 USC
22 7003(B).

1 **SEC. 2190. THIS CHAPTER TAKES EFFECT JULY 1, 2012.**

2 Enacting section 1. Section 2102 of the revised judicature act
3 of 1961, 1961 PA 236, MCL 600.2102, as amended by this amendatory
4 act, takes effect July 1, 2012.

5 Enacting section 2. This amendatory act does not take effect
6 unless Senate Bill No. 688

7 of the 96th Legislature is enacted into law.