

1 SB233
2 135457-2
3 By Senator Brooks
4 RFD: Judiciary
5 First Read: 07-FEB-12

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

22 Section 2. In this act:

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

25 (2) "Foreign subpoena" means a subpoena issued in a
26 civil action under authority of a court of record of a foreign
27 jurisdiction.

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

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

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

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

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

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

21 Section 3. (a) To request issuance of a subpoena
22 under this section, a party must submit a foreign subpoena to
23 a clerk of the circuit court in the county in which discovery
24 is sought to be conducted in this state. A request for the
25 issuance of a subpoena under this act does not constitute an
26 appearance in the courts of this state.

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

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

7 (1) Incorporate the terms used in the foreign
8 subpoena.

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

13 (3) Plainly and prominently state on its face: "THE
14 RECIPIENT OF THIS SUBPOENA HAS THE RIGHT TO OBJECT TO THIS
15 SUBPOENA WITHIN FIFTEEN (15) DAYS OF PROPER SERVICE BY
16 SUBMITTING A REASONABLY SPECIFIC WRITTEN OBJECTION TO THE
17 PARTY INITIATING THE SUBPOENA AS WELL AS THE LOCAL ISSUING
18 CLERK OF THE COURT AT THE FOLLOWING ADDRESS: [ADDRESS OF CLERK
19 OF COURT]."

20 (d) The Administrative Office of Courts shall have
21 the sole authority to set and collect the fee for the issuance
22 of a subpoena under this section.

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

26 Section 5. The Alabama Rules of Civil Procedure as
27 well as any applicable provision of the Code of Alabama 1975,

1 apply to subpoenas issued under Section 3. To the extent that
2 the provisions of Rule 28(b)(3) and subsection (c) of Rule 28
3 conflict with this act, those provisions are no longer
4 effective.

5 Section 6. An application to the court for a
6 protective order or to enforce, quash, or modify a subpoena
7 issued by a clerk of court under Section 3 must comply with
8 the rules or statutes of this state and must be submitted to
9 the circuit court in the county in which discovery is to be
10 conducted.

11 Section 7. In applying and construing this uniform
12 act, consideration shall be given to the need to promote
13 uniformity of the law with respect to its subject matter among
14 states that enact it. The privilege extended to persons in
15 other states for discovery under this article shall only apply
16 if the jurisdiction where the action is pending has extended a
17 similar privilege to persons in this state.

18 Section 8. This act applies to requests for
19 discovery in cases pending on or filed after the effective
20 date of this act.

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

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Senate

Read for the first time and referred to the Senate
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Read for the second time and placed on the calen-
dar..... 16-FEB-12

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Yeas 31
Nays 1

Patrick Harris
Secretary