

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

**REPORT TO THE AMERICAN BAR ASSOCIATION
HOUSE OF DELEGATES**

RECOMMENDATION

- 1 RESOLVED, That the American Bar Association approves the Uniform Interstate Depositions
- 2 and Discovery Act, promulgated by the National Conference of Commissioners on Uniform
- 3 State Laws in 2007 as an appropriate Act for those states desiring to adopt the specific
- 4 substantive law suggested therein.

REPORT**Uniform Interstate Depositions and Discovery Act
A Summary**

The Uniform Law Commission promulgated the **Uniform Interstate Depositions and Discovery Act** in 2007. The Act sets forth an efficient and inexpensive procedure for litigants to depose out of state individuals and for the production of discoverable materials that may be located out of state. Uniform procedures have become necessary as the amount of litigation involving individuals and documents located outside of the trial state has increased.

Under the Uniform Interstate Depositions and Discovery Act, litigants can present a clerk of the court located in the state where discoverable materials are sought with a subpoena issued by a court in the trial state. Once the clerk receives the foreign subpoena, the clerk will issue a subpoena for service upon the person or entity to which the original subpoena is directed. The terms of the issued subpoena must incorporate the same terms as the original subpoena and contain the contact information for all counsel of record and any party not represented by counsel.

The Act requires minimal judicial oversight and eliminates the need for obtaining a commission or local counsel in the discovery state, letters rogatory, or the filing of a miscellaneous action during the discovery phase of litigation. The scope of discovery authorized by the subpoena is to comply with the rules of the state in which it occurs. Motions to quash, enforce, or modify a subpoena issued pursuant to the Act shall be brought in and governed by the rules of the discovery state.

Uniform Interstate Depositions and Discovery Act will help harmonize the existing process for obtaining interstate evidence, and is an appropriate act for enactment in all states.

The work of the Drafting Committee is available at www.nccusl.org, the website of the Conference. The Uniform Interstate Depositions and Discovery Act can be found at: http://www.law.upenn.edu/bll/archives/ulc/idda/2007act_final.htm

Respectfully submitted,

Martha Lee Walters
President
National Conference of Commissioners
On Uniform State Laws
February 2008

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GENERAL INFORMATION FORM

To Be Appended to Reports with Recommendations
(Please refer to instructions for completing this form.)

Submitting Entity: National Conference of Commissioners on Uniform State Laws

Submitted by: Michael Kerr, Legislative Director

1. Summary of Recommendation(s).

The National Conference of Commissioners on Uniform State Laws requests approval of the Uniform Interstate Depositions and Discovery Act, by the ABA House of Delegates. The Interstate Depositions and Discovery Act (2007), was approved by the National Conference in 2007.

2. Approval by Submitting Entity.

The National Conference of Commissioners on Uniform State Laws approved it in July, 2007.

3. Has this or a similar recommendation been submitted to the House or Board previously?

None Known. This Act builds on the 1920 Uniform Foreign Depositions Act and the 1962 Interstate and International Procedures Act, which are not listed in the ABA Policy and Procedures Handbook.

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?

None Known

5. What urgency exists which requires action at this meeting of the House

Not Applicable

6. Status of Legislation. (If applicable.)

None. The Act has not been introduced in any state legislature as of 11-01-2007

7. Cost to the Association. (Both direct and indirect costs.)

Not applicable.

8. Disclosure of Interest. (If applicable.)

None.

9. Referrals

Pursuant to the agreement between the NCCUSL and the ABA, all members of the House of Delegates and Chairs of all ABA entities were advised of the drafting project and those that expressed interest were provided with tentative drafts, as well as the final Act and Report. The work of the Drafting Committee is available at www.nccusl.org, the website of the Conference.

The ABA Section Advisor for Tort Trial & Insurance Practice was Lin Hughes.

10. Contact Person (Prior to the meeting.)

John A. Sebert, Executive Director, National Conference of Commissioners on Uniform State Laws, 111 North Wabash, Suite 1010, Chicago, IL. 60602, 312/915-0195.

Michael R. Kerr, Legislative Director, National Conference of Commissioners on Uniform State Laws, 111 North Wabash, Suite 1010, Chicago, IL. 60602, 312/915-0195.

11. Contact Person. (Who will present the report to the House.)

Martha Lee Walters, President, National Conference of Commissioners on Uniform State Laws, Oregon Supreme Court, 1163 State St., Salem, OR. 97301.
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EXECUTIVE SUMMARY

1. Summary of the Recommendation

That the ABA approves the Uniform Interstate Depositions and Discovery Act as “an appropriate Act for those States desiring to adopt the substantive law suggested therein.”

2. Summary of the issue which the recommendation addresses

The Uniform Interstate Depositions and Discovery Act addresses the need for an efficient and inexpensive procedure that allows litigants to depose individuals and conduct discovery in a state other than the trial state

3. Please explain how the proposed policy position will address the issue.

The Uniform Act provides appropriate rules for the objective as stated in (2) above.

4. Summary of any minority views or opposition which have been identified

The NCCUSL is not aware of any minority views or opposition to the Uniform Act.