

ASSEMBLY BILL NO. 87—ASSEMBLYMAN SEGERBLOM

PREFILED JANUARY 7, 2011

Referred to Committee on Judiciary

SUMMARY—Enacts the Uniform Interstate Depositions and Discovery Act. (BDR 4-326)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to discovery; enacting the Uniform Interstate Depositions and Discovery Act; establishing procedures for requesting and issuing certain subpoenas; providing for the service and enforcement of such subpoenas; requiring that an application for a protective order or to enforce, quash or modify such subpoenas comply with all applicable rules of court and laws of this State; repealing the Uniform Foreign Depositions Act; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 Under existing law, the Uniform Foreign Depositions Act provides that an out-
- 2 of-state witness may be compelled to appear and testify in the same manner and by
- 3 the same process as may be used for the purpose of taking testimony in this State.
- 4 (NRS 53.050, 53.060, 53.070) This bill repeals the Uniform Foreign Depositions
- 5 Act and enacts the Uniform Interstate Depositions and Discovery Act.
- 6 The Uniform Interstate Depositions and Discovery Act provides procedures for
- 7 courts in Nevada to issue subpoenas from out-of-state litigants. **Section 8** of this
- 8 bill defines “subpoena” to mean a document requiring a person to provide
- 9 testimony at a deposition, produce certain discoverable items or permit the
- 10 inspection of certain premises. **Section 9** of this bill requires an out-of-state party
- 11 that wishes to have a subpoena issued in this State to submit a foreign subpoena to
- 12 the clerk of a court in the county in this State in which the deposition or discovery
- 13 is to take place, and provides procedures for the clerk to issue the in-state subpoena.
- 14 **Section 10** of this bill provides that a subpoena issued under the provisions of the
- 15 Act must be served and enforced in compliance with certain rules of civil procedure
- 16 in Nevada. **Section 11** of this bill requires an application for a protective order or to
- 17 enforce, quash or modify a subpoena issued under the Act to comply with all
- 18 applicable rules of court and laws of this State and to be filed in a court within the
- 19 county in which discovery is to be conducted.



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     **Section 1.** Chapter 53 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 12, inclusive, of this  
3 act.

4     **Sec. 2.** *The provisions of sections 2 to 12, inclusive, of this*  
5 *act may be cited as the Uniform Interstate Depositions and*  
6 *Discovery Act.*

7     **Sec. 3.** *As used in sections 2 to 12, inclusive, of this act,*  
8 *unless the context otherwise requires, the words and terms defined*  
9 *in sections 4 to 8, inclusive, of this act have the meanings ascribed*  
10 *to them in those sections.*

11     **Sec. 4.** *“Foreign jurisdiction” means a state other than this*  
12 *State.*

13     **Sec. 5.** *“Foreign subpoena” means a subpoena issued under*  
14 *the authority of a court of record of a foreign jurisdiction.*

15     **Sec. 6.** *“Person” means a natural person, corporation,*  
16 *business trust, estate, trust, partnership, limited-liability company,*  
17 *association, joint venture, public corporation, government or*  
18 *governmental subdivision, agency or instrumentality or any other*  
19 *legal or commercial entity.*

20     **Sec. 7.** *“State” means a state of the United States, the*  
21 *District of Columbia, Puerto Rico, the United States Virgin*  
22 *Islands or any territory or insular possession subject to the*  
23 *jurisdiction of the United States.*

24     **Sec. 8.** *“Subpoena” means a document, however*  
25 *denominated, issued under the authority of a court of record*  
26 *requiring a person to:*

- 27     1. *Attend and give testimony at a deposition;*  
28     2. *Produce and permit the inspection and copying of*  
29 *designated books, documents, records, electronically stored*  
30 *information or tangible things in the possession, custody or*  
31 *control of the person; or*  
32     3. *Permit the inspection of premises under the control of the*  
33 *person.*

34     **Sec. 9.** 1. *To request the issuance of a subpoena pursuant*  
35 *to this section, a party must submit a foreign subpoena to the clerk*  
36 *of a court in the county in which discovery is sought to be*  
37 *conducted in this State. A request for the issuance of a subpoena*  
38 *pursuant to this section does not constitute an appearance in the*  
39 *courts of this State.*



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

5       3. *A subpoena issued pursuant to subsection 2 must:*

6       (a) *Incorporate the terms used in the foreign subpoena; and*

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

11       **Sec. 10.** *A subpoena issued by the clerk of a court pursuant*  
12 *to section 9 of this act must be served and enforced in compliance*  
13 *with Rule 45 of the Nevada Rules of Civil Procedure or Rule 45 of*  
14 *the Justice Court Rules of Civil Procedure.*

15       **Sec. 11.** *An application to a court for a protective order or to*  
16 *enforce, quash or modify a subpoena issued by the clerk of the*  
17 *court pursuant to section 9 of this act must comply with all*  
18 *applicable rules of court and laws of this State and be submitted to*  
19 *the court in the county in which discovery is to be conducted.*

20       **Sec. 12.** *In applying and construing the Uniform Interstate*  
21 *Depositions and Discovery Act, consideration must be given to the*  
22 *need to promote uniformity of the law with respect to its subject*  
23 *matter among states that enact it.*

24       **Sec. 13.** NRS 53.050, 53.060 and 53.070 are hereby repealed.

25       **Sec. 14.** The provisions of sections 2 to 12, inclusive, of this  
26 act apply to requests for discovery in cases which are pending on  
27 October 1, 2011, or which are brought on or after that date.

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## TEXT OF REPEALED SECTIONS

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**53.050 Short title.** This section and NRS 53.060 and 53.070, may be cited as the Uniform Foreign Depositions Act.

**53.060 Authority to act.** Whenever any mandate, writ or commission is issued out of any court of record in any other state, territory, district or foreign jurisdiction, or whenever upon notice or agreement it is required to take the testimony of a witness or witnesses in this State, witnesses may be compelled to appear and testify in the same manner and by the same process and proceeding as may be employed for the purpose of taking testimony in proceedings pending in this State.



**53.070 Uniformity of interpretation.** This section and NRS 53.050 and 53.060, shall be so interpreted and construed as to effectuate their general purposes to make uniform the law of those states which enact them.

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