

CHAPTER 374
FORMERLY
SENATE BILL NO. 260
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE
DELAWARE UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 43, Title 10 by deleting § 4311 in its entirety and by substituting in lieu thereof a new § 4311 to read as follows:

“§ 4311. Delaware Uniform Interstate Depositions and Discovery Act.

(a) Short Title. This section may be cited as the Delaware Uniform Interstate Depositions and Discovery Act.

(b) Definitions. In this section:

(1) ‘Foreign jurisdiction’ means a state other than Delaware.

(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 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.

(c) Issuance of a Subpoena.

(1) To request issuance of a subpoena under this section, a party must submit a foreign subpoena to the Prothonotary 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.

(2) When a party submits a foreign subpoena to a Prothonotary in this state, the Prothonotary, in accordance with the court’s procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(3) A subpoena issued under § 4311(c)(2) 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.

(d) Service of Subpoena. A subpoena issued by a Prothonotary under § 4311(c) must be served in compliance with Title 10 and applicable Superior Court Rules for service of subpoena.

(e) Deposition, Production, and Inspection. Title 10 and applicable court rules of this state applicable to compliance with subpoenas to attend and give testimony, produce designated books, documents, records, electronically stored information, or tangible things, or permit inspection of premises apply to subpoenas issued pursuant to § 4311(c) of this Title.

(f) Application to Court. An application to the Superior Court for a protective order or to enforce, quash, or modify a subpoena issued by the Prothonotary under § 4311(c) must comply with the rules or statutes of this state and be submitted to the Superior Court in the county in which discovery is to be conducted.

(g) 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.

(h) Application to Pending Actions. This section applies to requests for discovery in cases pending on the effective date of this section.

(i) Effective Date. This section takes effect upon enactment.”

Approved July 12, 2010