COMMITTEE REPORT

February 11, 2009

**S. 21**

Introduced by Senator Hayes

S. Printed 2/11/09--S.

Read the first time January 13, 2009.

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**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 21) to amend the Code of Laws of South Carolina, 1976, by adding Chapter 47 to Title 15 so as to enact the “Uniform Interstate Depositions and Discovery Act”, to provide, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, page 1, beginning on line 32, by striking Section 15-47-110, in its entirety, and inserting therein the following:

/ Section 15-47-110. As used in this chapter: (1) ‘Clerk of court’ means a clerk of court who is duly elected for that county elected in each county pursuant to Section 14-17-10 and who is ex officio clerk of the court of general sessions, the family court, and all other courts of record in the county except as may be provided by the law establishing the other courts.

(2) 'Foreign jurisdiction' means a state other than South Carolina.

(3) 'Foreign subpoena' means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(4) '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.

(5) 'State' means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, federally recognized Indian tribes, or any territory or insular possession subject to the jurisdiction of the United States.

(6) 'Subpoena' means a document, however denominated, issued under authority of a 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. /

Amend the bill, as and if amended, page 2, beginning on line 16, in Section 15-47-120, by striking lines 16-17 in their entirety and inserting therein the following:

/ under this chapter, a party must submit a foreign subpoena to the clerk of court of the county in which discovery is sought to be /

Renumber sections to conform.

Amend title to conform.

A. SHANE MASSEY for Committee.

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U**STATEMENT OF ESTIMATED FISCAL IMPACT**

STIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The Judicial Department indicates this bill will have no impact on the General Fund of the State, nor on federal and/or other funds.

**LOCAL GOVERNMENT IMPACT:**

Pursuant to Section 2-7-76 of the Code of Laws of South Carolina, 1976, the Office of State Budget has surveyed members of the FIST Network. The responses will be forwarded upon receipt.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 47 TO TITLE 15 SO AS TO ENACT THE “UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT”, TO PROVIDE 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.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 15 of the 1976 Code is amended by adding:

“CHAPTER 47

Uniform Interstate Depositions and Discovery Act

Section 15‑47‑100. This chapter may be cited as the ‘Uniform Interstate Depositions and Discovery Act’.

Section 15‑47‑110. As used in this chapter:

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

(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, federally recognized Indian tribes, 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 a 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.

Section 15‑47‑120. (A) To request issuance of a subpoena under this chapter, a party must submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in this State. A request for the issuance of a subpoena under this chapter does not constitute an appearance in the courts of this State.

(B) When a party submits a foreign subpoena to a clerk of court in this State, the clerk, in accordance with the rules of court, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed. The subpoena must incorporate the terms used in the foreign subpoena and 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.

Section 15‑47‑130. A subpoena issued by a clerk of court under Section 15‑47‑120 must be served in compliance with the applicable rules of court or statutes relating to the service of a subpoena in this State.

Section 15‑47‑140. When a subpoena issued under Section 15‑47‑120 commands a person to attend and give testimony at a deposition, produce designated books, documents, records, electronically stored information, or tangible items, or permit inspection of premises, the time and place and the manner of the taking of the deposition, the production, or the inspection must comply with the South Carolina Rules of Civil Procedure relating to discovery.

Section 15‑47‑150. An application to the court for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of court under Section 15‑47‑120 must comply with the applicable rules or statutes of this State and be submitted to the court in the county in which discovery is to be conducted.

Section 15‑47‑160. 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 the states that enact it.”

SECTION 2. This act takes effect upon approval by the Governor and applies to requests for discovery in cases pending on that date.

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