Abramson   HB No. 619

Abstract: Adds the La. Uniform Interstate Depositions and Discovery Act, which adopts, in addition to the current mechanisms of discovery provided in the Uniform Foreign Depositions Law, including letters rogatory, additional mechanisms for discovery and depositions, limited to discovery in state courts.

Present law in R.S.13:3822, provides for the interpretation and citation of the Uniform Foreign Depositions Law.

Proposed law adds a reference to 13:3823 as part of the Uniform Foreign Depositions Law.

Present law (R.S.13:3823) provides for procedures in taking depositions in another state, or in a territory, district, or foreign jurisdiction, including letters rogatory.

Proposed law adds a reference to C.C.P. Art. 1435, allowing discovery from a non-resident non-party by utilizing the compulsory process of the foreign state or territory pursuant to that Article.

Present law (R.S.13:3824) provides for court orders to persons domiciled or found in this state to give testimony or produce documents in another state or foreign jurisdiction.

Proposed law includes and references the new La. Uniform Interstate Depositions and Discovery Act (R.S.13:3825) as a mechanism for compelling such discovery.

Present law provides for Uniform Foreign Depositions Law.

Proposed law (R.S.13:3825) adds the La. Uniform Interstate Depositions and Discovery Act, which adopts, in addition to the current mechanisms of discovery provided in the Uniform Foreign Depositions Law, including letters rogatory, additional mechanisms for discovery and depositions, limited to discovery in state courts.

SYNOPSIS

This La. State Law Institute recommended bill provides a La. version of the Uniform Interstate Depositions and Discovery Act (UIDDA), designated as R.S. 13:3825, with comments adjusted for the Louisiana version. This uniform law, adopted in a majority of states, is designed to make it easier for out-of-state lawyers to conduct discovery in foreign states to be used in the pending

action. Adoption of the UIDDA in La. does not eliminate any pre-existing requirement in La. that a commission or letters rogatory from its trial courts are required to take out-of-state depositions.

The UIDDA as adopted in La. will not affect the two alternative existing procedures which La. law now provides for La. lawyers to conduct discovery out-of-state:

(1)   R.S. 13:3823 authorizes the La. trial court to issue letters rogatory addressed to the out-of-state court to enable the out-of-state court to issue a subpoena. This procedure is provided by the Uniform Foreign Depositions Act which has been adopted in this state. It is used primarily for conducting discovery in those foreign states that still require letters rogatory from the out-of-state trial court.

(2)   Alternatively, the La. lawyer seeking out-of-state discovery can (after notice to all parties in the La. proceeding) compel the discovery in the foreign state by utilizing the foreign state's "compulsory process" to conduct discovery. Article 1435 provides this procedure.

Under Article 1435, if the foreign state has adopted the UIDDA, compliance with its procedure for the issuance of the two subpoenas (with no judicial intervention) is all that would be needed. To make sure that La. practitioners are aware of the availability of these two alternate procedures, amendment is made in R.S. 13:3823(A)(4) making a reference to the alternative procedure in Article 1435.

Additionally, R.S. 13:3824, which deals with making La. discovery available to out-of-state litigants, has been amended to reflect that the newly adopted UIDDA in R.S. 13:3825 is now available as an alternative procedure for such discovery in La.

(Amends R.S.13:3822, 3823(A)(4) and (B), and 3824(A); Adds R.S.13:3823(A)(5) and 3825)