

UNIFORM FOREIGN MONEY-JUDGMENTS RECOGNITION ACT

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ON UNIFORM STATE LAWS

and by it

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WITH PREFATORY NOTE AND COMMENTS

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UNIFORM FOREIGN MONEY-JUDGMENTS RECOGNITION ACT

The Committee which acted for the National Conference of Commissioners on Uniform State Laws in preparing the Uniform Foreign Money-Judgments Recognition Act was as follows:

JAMES C. DEZENDORF, Pacific Bldg., Portland, Ore., *Chairman*.
JOE C. BARRETT, McAdams Trust Bldg., Jonesboro, Ark.
STANLEY E. DADISMAN, College of Law, West Virginia University, Morgantown,
W. Va.
HARRY GUTTERMAN, Legislative Council, 324 Capitol Bldg., Phoenix, Ariz.
LEONARD C. HARDWICK, 12 South Main St., Rochester, N. H.
ALFRED HARSCH, University of Washington Law School, Seattle, Wash.
LAWRENCE C. JONES, Rutland, Vt.
WALTER D. MALCOLM, 1 Federal St., Boston, Mass.
WILLIAM A. McKENZIE, Fifth Third Bank Bldg., Cincinnati, Ohio.
JAMES K. NORTHAM, 500 Ista Bldg., Indianapolis, Ind.
WILLIAM J. PIERCE, University of Michigan Law School, Ann Arbor, Mich.
MILTON S. SELIGMAN, First National Bank Bldg., Albuquerque, N. Mex.
J. COLVIN WRIGHT, Superior Court, Bedford, Pa.

KURT H. NADELMANN, Harvard Law School, Cambridge, Mass., *Draftsman*

Assisted by

WILLIS L. M. REESE, Columbia University School of Law, New York, N. Y.

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NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS
1155 East Sixtieth Street
Chicago 37, Illinois

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PREFATORY NOTE

In most states of the Union, the law on recognition of judgments from foreign countries is not codified. In a large number of civil law countries, grant of conclusive effect to money-judgments from foreign courts is made dependent upon reciprocity. Judgments rendered in the United States have in many instances been refused recognition abroad either because the foreign court was not satisfied that local judgments would be recognized in the American jurisdiction involved or because no certification of existence of reciprocity could be obtained from the foreign government in countries where existence of reciprocity must be certified to the courts by the government. Codification by a state of its rules on the recognition of money-judgments rendered in a foreign court will make it more likely that judgments rendered in the state will be recognized abroad.

The Act states rules that have long been applied by the majority of courts in this country. In some respects the Act may not go as far as the decisions. The Act makes clear that a court is privileged to give the judgment of the court of a foreign country greater effect than it is required to do by the provisions of the Act. In codifying what bases for assumption of personal jurisdiction will be recognized, which is an area of the law still in evolution, the Act adopts the policy of listing bases accepted generally today and preserving for the courts the right to recognize still other bases. Because the Act is not selective and applies to judgments from any foreign court, the Act states that judgments rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law shall neither be recognized nor enforced.

The Act does not prescribe a uniform enforcement procedure. Instead, the Act provides that a judgment entitled to recognition will be enforceable in the same manner as the judgment of a court of a sister state which is entitled to full faith and credit.

In the preparation of the Act codification efforts made elsewhere have been taken into consideration, in particular, the [British] Foreign Judgments (Reciprocal Enforcement) Act of 1933 and a Model Act produced in 1960 by the International Law Association. The Canadian Commissioners on Uniformity of Legislation, engaged in a similar endeavor, have been kept informed of the progress of the work. Enactment by the states of the Union of modern uniform rules on recognition of foreign money-judgments will support efforts toward improvement of the law on recognition everywhere.

UNIFORM FOREIGN MONEY-JUDGMENTS RECOGNITION ACT

[Be it enacted]

SECTION 1. [Definitions.] As used in this Act:

(1) “foreign state” means any governmental unit other than the United States, or any state, district, commonwealth, territory, insular possession thereof, or the Panama Canal Zone, the Trust Territory of the Pacific Islands, or the Ryukyu Islands;

(2) “foreign judgment” means any judgment of a foreign state granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty, or a judgment for support in matrimonial or family matters.

SECTION 2. [Applicability.] This Act applies to any foreign judgment that is final and conclusive and enforceable where rendered even though an appeal therefrom is pending or it is subject to appeal.

Comment

Where an appeal is pending or the defendant intends to appeal, the court of the enacting state has power to stay proceedings in accordance with section 6 of the Act.

SECTION 3. [Recognition and Enforcement.] Except as provided in section 4, a foreign judgment meeting the requirements of section 2 is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. The foreign judgment is enforceable in the same manner as the judgment of a sister state which is entitled to full faith and credit.

Comment

The method of enforcement will be that of the Uniform Enforcement of Foreign Judgments Act of 1948 in a state having enacted that Act.

SECTION 4. [*Grounds for Non-Recognition.*]

(a) A foreign judgment is not conclusive if

(1) the judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(2) the foreign court did not have personal jurisdiction over the defendant; or

(3) the foreign court did not have jurisdiction over the subject matter.

(b) A foreign judgment need not be recognized if

(1) the defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend;

(2) the judgment was obtained by fraud;

(3) the [cause of action] [claim for relief] on which the judgment is based is repugnant to the public policy of this state;

(4) the judgment conflicts with another final and conclusive judgment;

(5) the proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court; or

(6) in the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

Comment

The first ground for non-recognition under subsection (a) has been stated authoritatively by the Supreme Court of the United States in *Hilton v. Guyot*, 159 U.S. 113, 205 (1895). As indicated in that decision, a mere difference in the procedural system is not a sufficient basis for non-recognition. A case of serious injustice must be involved.

The last ground for non-recognition under subsection (b) authorizes a court to refuse recognition and enforcement of a judgment rendered in a foreign country on the basis only of personal service when it believes the original action should

have been dismissed by the court in the foreign country on grounds of *forum non conveniens*.

SECTION 5. [*Personal Jurisdiction.*]

(a) The foreign judgment shall not be refused recognition for lack of personal jurisdiction if

(1) the defendant was served personally in the foreign state;

(2) the defendant voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over him;

(3) the defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

(4) the defendant was domiciled in the foreign state when the proceedings were instituted, or, being a body corporate had its principal place of business, was incorporated, or had otherwise acquired corporate status, in the foreign state;

(5) the defendant had a business office in the foreign state and the proceedings in the foreign court involved a [cause of action] [claim for relief] arising out of business done by the defendant through that office in the foreign state; or

(6) the defendant operated a motor vehicle or airplane in the foreign state and the proceedings involved a [cause of action] [claim for relief] arising out of such operation.

(b) The courts of this state may recognize other bases of jurisdiction.

Comment

New bases of jurisdiction have been recognized by courts in recent years. The Act does not codify all these new bases. Subsection (b) makes clear that the Act does not prevent the courts in the enacting state from recognizing foreign judgments rendered on the bases of jurisdiction not mentioned in the Act.

SECTION 6. [*Stay in Case of Appeal.*] If the defendant satisfies the court either that an appeal is pending or that he is entitled and intends to appeal from the foreign judgment, the court may stay the proceedings until the appeal has been determined or until the expiration of a period of time sufficient to enable the defendant to prosecute the appeal.

SECTION 7. [*Saving Clause.*] This Act does not prevent the recognition of a foreign judgment in situations not covered by this Act.

SECTION 8. [*Uniformity of Interpretation.*] This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 9. [*Short Title.*] This Act may be cited as the Uniform Foreign Money-Judgments Recognition Act.

SECTION 10. [*Repeal.*] [The following Acts are repealed:

(1)

(2)

(3)

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SECTION 11. [*Time of Taking Effect.*] This Act shall take effect