

SENATE BILL REPORT

SB 5153

As Amended by House, April 6, 2009

Title: An act relating to creating the uniform foreign-country money judgments recognition act.

Brief Description: Creating the uniform foreign-country money judgments recognition act.

Sponsors: Senators Kline, Rockefeller and Shin; by request of Uniform Legislation Commission.

Brief History:

Committee Activity: Judiciary: 1/23/09, 1/27/09 [DP].

Passed Senate: 2/26/09, 45-0.

Passed House: 4/06/09, 94-2.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, Kohl-Welles, Roach and Tom.

Staff: Juliana Roe (786-7438)

Background: The Uniform Foreign-Country Money Judgments Recognition Act (Act) was created in 1962. It provides for the enforcement of foreign country judgments in a state court in the United States. It has been enacted in 32 states. It was created to simplify international business by recognizing money judgments obtained in other nations for the purpose of enforcement. Since 1962, international trade in the United States has increased and, therefore, so has litigation in the interstate context. This has led to more judgments needing enforcement from country to country. There is currently no uniformity between states with respect to the law governing foreign-country money judgments.

Summary of Bill: A judgment entitled to full faith and credit under the U.S. Constitution is not enforceable under this Act. The relationship between "Foreign-Country Money Judgments Act" and the "Enforcement of Foreign Judgments Act" is clarified; recognition by a court is a different procedure than enforcement of a sister state judgment from within the United States.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

If the statutory standards are met and the appropriate action is filed in state court, the state court will recognize a foreign country judgment. It must be shown that the judgment is conclusive, final, and enforceable in the country of origin. Some money judgments are excluded, such as judgments on taxes or fines. Foreign-country judgments will not be recognized if they come from court systems that are not impartial, dishonor due process, or there is no personal jurisdiction over the defendant or subject matter of the litigation. A final, conclusive judgment enforceable in the country of origin, if not excluded, must be recognized and enforced. A party seeking recognition of a foreign judgment has the burden of proof that the judgment is subject to the Act. A party seeking a specific ground for non-recognition has the burden of proof. If recognition is sought as an original matter, the party seeking recognition must file an action in the court. If recognition is sought in a pending action, it may be filed as a counter-claim, cross-claim, or affirmative defense in the pending action. If a foreign-country judgment can no longer be enforced in the country of origin, it may not be enforced in a court of this state. If there is no limitation on enforcement in the country of origin, the judgment becomes unenforceable 15 years after the time of judgment is effective in the country of origin.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: A group of 260 lawyers, professors, and judges, representing various states, sit together to draft laws on issues where uniformity is needed. A lot of effort has gone into getting a good product. This is an update of a prior act. The purpose of this is to clarify issues that have come up over the years. The biggest issues are enforceability and statutes of limitations. Domestic relations has its own separate act. It is fairly straightforward and is not controversial.

Persons Testifying: PRO: Judge Marlin Applewick, Uniform Legislation Commission.

House Amendment(s): The amendment makes a technical correction by removing bracketed language.