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SENATE BILL 5153

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State of Washington                      61st Legislature                      2009 Regular Session

By Senators Kline, Rockefeller, and Shin; by request of Uniform  
Legislation Commission

Read first time 01/15/09. Referred to Committee on Judiciary.

1            AN ACT Relating to creating the uniform foreign-country money  
2 judgments recognition act; adding a new chapter to Title 6 RCW; and  
3 repealing RCW 6.40.010, 6.40.020, 6.40.030, 6.40.040, 6.40.050,  
4 6.40.060, 6.40.070, 6.40.900, 6.40.905, 6.40.910, and 6.40.915.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            NEW SECTION.    **Sec. 1.** This chapter may be known and cited as the  
7 uniform foreign-country money judgments recognition act.

8            NEW SECTION.    **Sec. 2.** The definitions in this section apply  
9 throughout this chapter unless the context clearly requires otherwise.

10            (1) "Foreign country" means a government other than:

11            (a) The United States;

12            (b) A state, district, commonwealth, territory, or insular  
13 possession of the United States; or

14            (c) Any other government with regard to which the decision in this  
15 state as to whether to recognize a judgment of that government's courts  
16 is initially subject to determination under the full faith and credit  
17 clause of the United States Constitution.

1 (2) "Foreign-country judgment" means a judgment of a court of a  
2 foreign country.

3 NEW SECTION. **Sec. 3.** (1) Except as otherwise provided in  
4 subsection (2) of this section, this chapter applies to a foreign-  
5 country judgment to the extent that the judgment:

- 6 (a) Grants or denies recovery of a sum of money; and
- 7 (b) Under the law of the foreign country where rendered, is final,  
8 conclusive, and enforceable.

9 (2) This chapter does not apply to a foreign-country judgment, even  
10 if the judgment grants or denies recovery of a sum of money, to the  
11 extent that the judgment is:

- 12 (a) A judgment for taxes;
- 13 (b) A fine or other penalty; or
- 14 (c) A judgment for divorce, support, or maintenance, or other  
15 judgment rendered in connection with domestic relations.

16 (3) A party seeking recognition of a foreign-country judgment has  
17 the burden of establishing that this chapter applies to the foreign-  
18 country judgment.

19 NEW SECTION. **Sec. 4.** (1) Except as otherwise provided in  
20 subsections (2) and (3) of this section, a court of this state shall  
21 recognize a foreign-country judgment to which this chapter applies.

22 (2) A court of this state may not recognize a foreign-country  
23 judgment if:

- 24 (a) The judgment was rendered under a judicial system that does not  
25 provide impartial tribunals or procedures compatible with the  
26 requirements of due process of law;

27 (b) The foreign court did not have personal jurisdiction over the  
28 defendant; or

29 (c) The foreign court did not have jurisdiction over the subject  
30 matter.

31 (3) A court of this state need not recognize a foreign-country  
32 judgment if:

- 33 (a) The defendant in the proceeding in the foreign court did not  
34 receive notice of the proceeding in sufficient time to enable the  
35 defendant to defend;

1 (b) The judgment was obtained by fraud that deprived the losing  
2 party of an adequate opportunity to present its case;

3 (c) The judgment or the cause of action on which the judgment is  
4 based is repugnant to the public policy of this state or of the United  
5 States;

6 (d) The judgment conflicts with another final and conclusive  
7 judgment;

8 (e) The proceeding in the foreign court was contrary to an  
9 agreement between the parties under which the dispute in question was  
10 to be determined otherwise than by proceedings in that foreign court;

11 (f) In the case of jurisdiction based only on personal service, the  
12 foreign court was a seriously inconvenient forum for the trial of the  
13 action;

14 (g) The judgment was rendered in circumstances that raise  
15 substantial doubt about the integrity of the rendering court with  
16 respect to the judgment; or

17 (h) The specific proceeding in the foreign court leading to the  
18 judgment was not compatible with the requirements of due process of  
19 law.

20 (4) A party resisting recognition of a foreign-country judgment has  
21 the burden of establishing that a ground for nonrecognition stated in  
22 subsection (2) or (3) of this section exists.

23 NEW SECTION. **Sec. 5.** (1) A foreign-country judgment may not be  
24 refused recognition for lack of personal jurisdiction if:

25 (a) The defendant was served with process personally in the foreign  
26 country;

27 (b) The defendant voluntarily appeared in the proceeding, other  
28 than for the purpose of protecting property seized or threatened with  
29 seizure in the proceeding or of contesting the jurisdiction of the  
30 court over the defendant;

31 (c) The defendant, before the commencement of the proceeding, had  
32 agreed to submit to the jurisdiction of the foreign court with respect  
33 to the subject matter involved;

34 (d) The defendant was domiciled in the foreign country when the  
35 proceeding was instituted or was a corporation or other form of  
36 business organization that had its principal place of business in, or  
37 was organized under the laws of, the foreign country;

1 (e) The defendant had a business office in the foreign country and  
2 the proceeding in the foreign court involved a [cause of action] [claim  
3 for relief] arising out of business done by the defendant through that  
4 office in the foreign country; or

5 (f) The defendant operated a motor vehicle or airplane in the  
6 foreign country and the proceeding involved a [cause of action] [claim  
7 for relief] arising out of that operation.

8 (2) The list of bases for personal jurisdiction in subsection (1)  
9 of this section is not exclusive. The courts of this state may  
10 recognize bases of personal jurisdiction other than those listed in  
11 subsection (1) of this section as sufficient to support a foreign-  
12 country judgment.

13 NEW SECTION. **Sec. 6.** (1) If recognition of a foreign-country  
14 judgment is sought as an original matter, the issue of recognition  
15 shall be raised by filing an action seeking recognition of the foreign-  
16 country judgment.

17 (2) If recognition of a foreign-country judgment is sought in a  
18 pending action, the issue of recognition may be raised by counterclaim,  
19 cross-claim, or affirmative defense.

20 NEW SECTION. **Sec. 7.** If the court in a proceeding under section  
21 6 of this act finds that the foreign-country judgment is entitled to  
22 recognition under this chapter then, to the extent that the foreign-  
23 country judgment grants or denies recovery of a sum of money, the  
24 foreign-country judgment is:

25 (1) Conclusive between the parties to the same extent as the  
26 judgment of a sister state entitled to full faith and credit in this  
27 state would be conclusive; and

28 (2) Enforceable in the same manner and to the same extent as a  
29 judgment rendered in this state.

30 NEW SECTION. **Sec. 8.** If a party establishes that an appeal from  
31 a foreign-country judgment is pending or will be taken, the court may  
32 stay any proceedings with regard to the foreign-country judgment until  
33 the appeal is concluded, the time for appeal expires, or the appellant  
34 has had sufficient time to prosecute the appeal and has failed to do  
35 so.

1        NEW SECTION.    **Sec. 9.**    An action to recognize a foreign-country  
2 judgment must be commenced within the earlier of the time during which  
3 the foreign-country judgment is effective in the foreign country or  
4 fifteen years from the date that the foreign-country judgment became  
5 effective in the foreign country.

6        NEW SECTION.    **Sec. 10.**    In applying and construing this uniform  
7 act, consideration must be given to the need to promote uniformity of  
8 the law with respect to its subject matter among states that enact it.

9        NEW SECTION.    **Sec. 11.**    This chapter applies to all actions  
10 commenced on or after the effective date of this section in which the  
11 issue of recognition of a foreign-country judgment is raised.

12        NEW SECTION.    **Sec. 12.**    This chapter does not prevent the  
13 recognition under principles of comity or otherwise of a foreign-  
14 country judgment not within the scope of this chapter.

15        NEW SECTION.    **Sec. 13.**    Sections 1 through 12 of this act  
16 constitute a new chapter in Title 6 RCW.

17        NEW SECTION.    **Sec. 14.**    The following acts or parts of acts are  
18 each repealed:

- 19        (1) RCW 6.40.010 (Definitions) and 1975 1st ex.s. c 240 s 1;
- 20        (2) RCW 6.40.020 (Applicability) and 1975 1st ex.s. c 240 s 2;
- 21        (3) RCW 6.40.030 (Recognition and enforcement) and 1975 1st ex.s.  
22 c 240 s 3;
- 23        (4) RCW 6.40.040 (Grounds for nonrecognition) and 1975 1st ex.s. c  
24 240 s 4;
- 25        (5) RCW 6.40.050 (Personal jurisdiction) and 1975 1st ex.s. c 240  
26 s 5;
- 27        (6) RCW 6.40.060 (Stay in case of appeal) and 1975 1st ex.s. c 240  
28 s 6;
- 29        (7) RCW 6.40.070 (Saving clause) and 1975 1st ex.s. c 240 s 7;
- 30        (8) RCW 6.40.900 (Uniformity of interpretation) and 1975 1st ex.s.  
31 c 240 s 8;
- 32        (9) RCW 6.40.905 (Short title) and 1975 1st ex.s. c 240 s 9;

1           (10) RCW 6.40.910 (Application to judgments in effect on effective  
2 date) and 1975 1st ex.s. c 240 s 10; and  
3           (11) RCW 6.40.915 (Section headings) and 1975 1st ex.s. c 240 s 12.

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