

SENATE BILL NO. 177—COMMITTEE ON JUDICIARY

FEBRUARY 28, 2007

Referred to Committee on Judiciary

SUMMARY—Enacts the Uniform Foreign-Country Money Judgments Recognition Act. (BDR 2-963)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to judgments; enacting the Uniform Foreign-Country Money Judgments Recognition Act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the enforcement of a judgment of a federal court or a court of another state to implement the Full Faith and Credit Clause of the United States Constitution. (NRS 17.330-17.400) This bill enacts the Uniform Foreign-Country Money Judgments Recognition Act, which provides for the recognition of foreign country judgments in a state court in the United States.

The first step towards the enforcement of a foreign country judgment is the recognition of the judgment. The recognition occurs in a state court when an appropriate action is filed. Under **section 9** of this bill, if recognition is sought as an original matter, the party seeking recognition must file an action in a court to obtain recognition. However, if recognition is sought in a pending action, the party seeking recognition may set forth a counterclaim, cross-claim or affirmative defense in the pending action.

Section 6 of this bill provides that two requirements must be met before the procedures of this bill may be utilized to recognize a foreign country judgment. A court of this State may recognize a foreign country judgment under the procedures set forth in this bill only if the party seeking recognition shows that the judgment grants or denies recovery of a sum of money and is conclusive, final and enforceable in the country of origin. In addition, **section 6** excludes from the scope of this bill certain money judgments, such as judgments on taxes, fines or penalties and judgments relating to domestic relations. Under **section 14** of this bill, a judgment excluded from this bill may be recognized pursuant to other principles of law.

Section 7 of this bill provides the standards for the recognition of a foreign country judgment that is within the scope of this bill. Under **section 7**, a court must



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recognize a foreign country judgment unless the party opposing recognition establishes certain grounds for nonrecognition of the judgment. A court may not recognize a judgment if it comes from a court system that is not impartial or that dishonors due process, or there is no personal jurisdiction over the defendant or over the subject matter of the litigation. Moreover, **section 7** provides certain grounds that allow a court to deny recognition to a foreign country judgment.

Section 10 of this bill provides the consequences of a decision by a court that a foreign country judgment is entitled to recognition. The first consequence is that the foreign country judgment is treated as conclusive between the parties in this State to the same extent that a judgment of a court of another state that is entitled to full faith and credit would be conclusive. The second consequence is that a foreign country judgment that is recognized is enforceable in the same manner and to the same extent as a judgment of a court of this State.

Section 12 of this bill establishes a statute of limitation for the recognition of a foreign country judgment. Under **section 12**, if the judgment cannot be enforced any longer in the country of origin, it may not be recognized in a court in this State. However, if there is no limitation on enforcement in the country of origin, the judgment becomes unenforceable in this State 15 years after the judgment is effective in the country of origin.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 17 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *Sections 2 to 14, inclusive, of this act may be cited as the Uniform Foreign-Country Money Judgments Recognition Act.*

Sec. 3. *As used in sections 2 to 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 and 5 of this act have the meanings ascribed to them in those sections.*

Sec. 4. *“Foreign country” means a government other than:*

1. The United States;

2. A state, district, commonwealth, territory or insular possession of the United States; or

3. Any other government with regard to which the decision in this State as to whether to recognize a judgment of that government’s courts is initially subject to determination under the Full Faith and Credit Clause of the United States Constitution.

Sec. 5. *“Foreign-country judgment” means a judgment of a court of a foreign country.*

Sec. 6. 1. *Except as otherwise provided in subsection 2, sections 2 to 14, inclusive, of this act apply to a foreign-country judgment to the extent that the judgment:*

(a) Grants or denies recovery of a sum of money; and

(b) Under the law of the foreign country where rendered, is final, conclusive and enforceable.



2. Sections 2 to 14, inclusive, of this act do not apply to a foreign-country judgment, even if the judgment grants or denies recovery of a sum of money, to the extent that the judgment is:

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

3. A party seeking recognition of a foreign-country judgment has the burden of establishing that sections 2 to 14, inclusive, of this act apply to the foreign-country judgment.

Sec. 7. 1. Except as otherwise provided in subsections 2 and 3, a court of this State shall recognize a foreign-country judgment to which sections 2 to 14, inclusive, of this act apply.

2. A court of this State may not recognize a foreign-country judgment if:

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

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

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

3. A court of this State need not recognize a foreign-country judgment if:

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

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

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

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

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

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

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



1 (h) The specific proceeding in the foreign court leading to the
2 judgment was not compatible with the requirements of due process
3 of law.

4 4. A party resisting recognition of a foreign-country
5 judgment has the burden of establishing that a ground for
6 nonrecognition stated in subsection 2 or 3 exists.

7 Sec. 8. 1. A foreign-country judgment may not be refused
8 recognition for lack of personal jurisdiction if:

9 (a) The defendant was served with process personally in the
10 foreign country;

11 (b) The defendant voluntarily appeared in the proceeding,
12 other than for the purpose of protecting property seized or
13 threatened with seizure in the proceeding or of contesting the
14 jurisdiction of the court over the defendant;

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

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

22 (e) The defendant had a business office in the foreign country
23 and the proceeding in the foreign court involved a cause of action
24 arising out of business done by the defendant through that office
25 in the foreign country; or

26 (f) The defendant operated a motor vehicle or airplane in the
27 foreign country and the proceeding involved a cause of action
28 arising out of that operation.

29 2. The list of bases for personal jurisdiction in subsection 1 is
30 not exclusive. The courts of this State may recognize bases of
31 personal jurisdiction other than those listed in subsection 1 as
32 sufficient to support a foreign-country judgment.

33 Sec. 9. 1. If recognition of a foreign-country judgment is
34 sought as an original matter, the issue of recognition shall be
35 raised by filing an action seeking recognition of the foreign-
36 country judgment.

37 2. If recognition of a foreign-country judgment is sought in a
38 pending action, the issue of recognition may be raised by
39 counterclaim, cross-claim or affirmative defense.

40 Sec. 10. If the court in a proceeding under section 9 of this
41 act finds that the foreign-country judgment is entitled to
42 recognition under sections 2 to 14, inclusive, of this act, then, to
43 the extent that the foreign-country judgment grants or denies
44 recovery of a sum of money, the foreign-country judgment is:



1 1. *Conclusive between the parties to the same extent as the*
2 *judgment of a sister state entitled to full faith and credit in this*
3 *State would be conclusive; and*

4 2. *Enforceable in the same manner and to the same extent as*
5 *a judgment rendered in this State.*

6 **Sec. 11.** *If a party establishes that an appeal from a foreign-*
7 *country judgment is pending or will be taken, the court may stay*
8 *any proceedings with regard to the foreign-country judgment until*
9 *the appeal is concluded, the time for appeal expires or the*
10 *appellant has had sufficient time to prosecute the appeal and has*
11 *failed to do so.*

12 **Sec. 12.** *An action to recognize a foreign-country judgment*
13 *must be commenced within the earlier of the time during which*
14 *the foreign-country judgment is effective in the foreign country or*
15 *15 years from the date that the foreign-country judgment became*
16 *effective in the foreign country.*

17 **Sec. 13.** *In applying and construing the Uniform Foreign-*
18 *Country Money Judgments Recognition Act, consideration must*
19 *be given to the need to promote uniformity of the law with respect*
20 *to its subject matter among states that enact it.*

21 **Sec. 14.** *Sections 2 to 14, inclusive, of this act do not prevent*
22 *the recognition under principles of comity or otherwise of a*
23 *foreign-country judgment not within the scope of sections 2 to 14,*
24 *inclusive, of this act.*

25 **Sec. 15.** *The provisions of this act apply to all actions*
26 *commenced on or after October 1, 2007, in which the issue of*
27 *recognition of a foreign-country judgment is raised.*

