

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS55107-MH-34* (2/17)

Short Title: Rewrite Foreign Money Judgments Laws. (Public)

Sponsors: Senator Hartsell.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REWRITE THE LAW CONCERNING THE RECOGNITION OF FOREIGN
3 MONEY JUDGMENTS, AS RECOMMENDED BY THE GENERAL STATUTES
4 COMMISSION .

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 18 of Chapter 1C of the General Statutes is repealed.

7 **SECTION 2.** Chapter 1C of the General Statutes is amended by adding a new
8 Article to read:

9 "Article 20.

10 "North Carolina Uniform Foreign-Country Money Judgments Recognition Act.

11 **"§ 1C-1850. Short title.**

12 This Article may be cited as the North Carolina Uniform Foreign-Country Money
13 Judgments Recognition Act.

14 **"§ 1C-1851. Definitions.**

15 The following definitions apply in this Article:

16 (1) Foreign country. – A government other than:

17 a. The United States;

18 b. A state, district, commonwealth, territory, or insular possession of
19 the United States; or

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

24 (2) Foreign-country judgment. – A judgment of a court of a foreign country.

25 **"§ 1C-1852. Applicability; saving clause.**

26 (a) Except as otherwise provided in subsection (b) of this section, this Article applies to
27 a foreign-country judgment to the extent that the judgment:

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

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

31 (b) This Article does not apply to a foreign-country judgment, even if the judgment
32 grants or denies recovery of a sum of money, to the extent that the judgment is:

33 (1) A judgment for taxes;

34 (2) A fine or other penalty; or



- 1 (3) A judgment for alimony, support, or maintenance in matrimonial or family
2 matters.
- 3 (c) A party seeking recognition of a foreign-country judgment has the burden of
4 establishing that this Article applies to the foreign-country judgment.
- 5 (d) This Article does not prevent the recognition under principles of comity or
6 otherwise of a foreign-country judgment to which this Article does not apply.
- 7 **"§ 1C-1853. Standards for recognition and nonrecognition of foreign-country judgment.**
- 8 (a) Except as otherwise provided in this section, a court of this State shall recognize a
9 foreign-country judgment to which this Article applies.
- 10 (b) A court of this State shall not recognize a foreign-country judgment if:
- 11 (1) The judgment was rendered under a judicial system that, taken as a whole,
12 does not provide impartial tribunals or procedures compatible with the
13 requirements of due process of law;
- 14 (2) The foreign court did not have personal jurisdiction over the defendant; or
- 15 (3) The foreign court did not have jurisdiction over the subject matter.
- 16 (c) If a court of this State finds that any of the following exist with respect to a
17 foreign-country judgment for which recognition is sought, recognition of the judgment shall be
18 denied unless the court determines, as a matter of law, that recognition would nevertheless be
19 reasonable under the circumstances:
- 20 (1) The defendant in the proceeding in the foreign court did not receive notice of
21 the proceeding in sufficient time to enable the defendant to defend.
- 22 (2) The judgment was obtained by fraud that deprived the losing party of an
23 adequate opportunity to present its case.
- 24 (3) The judgment, or the cause of action or claim for relief on which the
25 judgment is based, is repugnant to the public policy of this State or of the
26 United States.
- 27 (4) Reserved for future codification.
- 28 (5) The proceeding in the foreign court was contrary to an agreement between
29 the parties under which the dispute in question was to be determined
30 otherwise than by proceedings in that foreign court.
- 31 (6) In the case of jurisdiction based only on personal service, the foreign court
32 was a seriously inconvenient forum for the trial of the action.
- 33 (7) The judgment was rendered in circumstances that raise substantial doubt
34 about the integrity of the rendering court with respect to the judgment.
- 35 (8) The specific proceeding in the foreign court leading to the judgment was
36 fundamentally unfair.
- 37 (d) If a foreign-country judgment for which recognition is sought is otherwise entitled
38 to recognition under this Article but conflicts with a prior final and conclusive judgment, a
39 court of this State shall recognize the judgment for which recognition is sought unless the court
40 determines that nonrecognition would nevertheless be reasonable under the circumstances.
- 41 (e) If a foreign-country judgment for which recognition is sought is otherwise entitled
42 to recognition under this Article but conflicts with a subsequent final and conclusive judgment,
43 a court of this State shall deny recognition of the judgment for which recognition is sought
44 unless the court determines that recognition would nevertheless be reasonable under the
45 circumstances.
- 46 (f) A party resisting recognition of a foreign-country judgment has the burden of
47 establishing that a ground for nonrecognition stated in subsection (b) of this section exists.
- 48 (g) A party resisting recognition of a foreign-country judgment has the burden of
49 establishing that a ground for nonrecognition stated in subsection (c) of this section exists. The
50 party seeking recognition of the judgment has the burden of establishing that, as a matter of
51 law, recognition would nevertheless be reasonable under the circumstances.

1 (h) A party resisting recognition of a foreign-country judgment under subsection (d) or
2 (e) of this section has the burden of establishing that another final and conclusive judgment
3 exists and that the other judgment conflicts with the judgment for which recognition is sought.
4 Under subsection (d) of this section, the party resisting recognition also has the burden of
5 establishing that nonrecognition of the judgment for which recognition is sought would be
6 reasonable under the circumstances. Under subsection (e) of this section, the party seeking
7 recognition of the foreign-country judgment has the burden of establishing that recognition
8 would be reasonable under the circumstances.

9 (i) When a court of this State rules on recognition of a foreign-country judgment, the
10 court shall state the facts specially and state separately its conclusions of law.

11 **"§ 1C-1854. Personal jurisdiction.**

12 (a) A foreign-country judgment shall not be refused recognition for lack of personal
13 jurisdiction if any of the following exist:

14 (1) The defendant was served with process personally in the foreign country.

15 (2) The defendant voluntarily appeared in the proceeding, other than for the
16 purpose of protecting property seized or threatened with seizure in the
17 proceeding or of contesting the jurisdiction of the court over the defendant.

18 (3) The defendant, before the commencement of the proceeding, had agreed to
19 submit to the jurisdiction of the foreign court with respect to the subject
20 matter involved.

21 (4) The defendant was domiciled in the foreign country when the proceeding
22 was instituted or was a corporation or other form of business organization
23 that had its principal place of business in, or was organized under the laws
24 of, the foreign country.

25 (5) The defendant had a business office in the foreign country and the
26 proceeding in the foreign court involved a cause of action or claim for relief
27 arising out of business done by the defendant through that office in the
28 foreign country.

29 (6) The defendant operated a motor vehicle or airplane in the foreign country
30 and the proceeding involved a cause of action or claim for relief arising out
31 of that operation.

32 (7) There was any other basis for personal jurisdiction that would be consistent
33 with the Due Process Clause of the Fourteenth Amendment to the United
34 States Constitution.

35 (b) The list of bases for personal jurisdiction in subsection (a) of this section is not
36 exclusive. The courts of this State may recognize reasonable bases of personal jurisdiction
37 other than those listed in subsection (a) of this section as sufficient to support a foreign-country
38 judgment.

39 **"§ 1C-1855. Procedure for recognition and nonrecognition of foreign-country judgment.**

40 (a) If recognition of a foreign-country judgment is sought as an original matter, the
41 issue of recognition shall be raised by filing an action seeking recognition of the
42 foreign-country judgment.

43 (b) If recognition or nonrecognition of a foreign-country judgment is sought in some
44 other action, the issue of recognition may be raised by complaint, counterclaim, cross-claim, or
45 affirmative defense.

46 **"§ 1C-1856. Effect of recognition of foreign-country judgment.**

47 (a) If the court in a proceeding under G.S. 1C-1855 finds that the foreign-country
48 judgment is entitled to recognition under this Article then, to the extent that the foreign-country
49 judgment grants or denies recovery of a sum of money, the foreign-country judgment is:

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

1 (2) Enforceable in the same manner and to the same extent as a judgment
2 rendered in this State.

3 (b) Article 17 of this Chapter does not apply to the enforcement of foreign-country
4 judgments recognized under this Article.

5 **"§ 1C-1857. Stay of proceedings pending appeal of foreign-country judgment.**

6 If a party establishes that an appeal from a foreign-country judgment is pending or will be
7 taken, the court may stay any proceedings with regard to the foreign-country judgment until the
8 appeal is concluded, the time for appeal expires without an appeal being taken, or the appellant
9 has had sufficient time to prosecute the appeal and has failed to do so.

10 **"§ 1C-1858. Statute of limitations.**

11 An action to recognize a foreign-country judgment must be commenced within the earlier
12 of the time during which the foreign-country judgment is effective in the foreign country or 10
13 years from the date that the foreign-country judgment became effective in the foreign country.

14 **"§ 1C-1859. Uniformity of interpretation.**

15 In applying and construing this Article, consideration may be given to promoting
16 uniformity of interpretation with respect to its subject matter among states that enact it."

17 **SECTION 3.** The Revisor of Statutes shall cause to be printed along with this act
18 all relevant portions of the official comments to the Uniform Foreign-Country Money
19 Judgments Recognition Act and all explanatory comments of the drafters of this act as the
20 Revisor deems appropriate.

21 **SECTION 4.** This act is effective October 1, 2009, and applies to all actions
22 commenced on or after that date in which the issue of recognition of a foreign-country
23 judgment is raised.