

1 HB378
2 135494-2
3 By Representative Poole
4 RFD: Judiciary
5 First Read: 21-FEB-12

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8 SYNOPSIS: Under current Alabama law, there is no
9 statutory framework for the recognition of
10 foreign-country money judgments. Instead,
11 recognition is governed under common law by the
12 doctrine of comity.

13 This bill would provide for the Alabama
14 Uniform Foreign-Country Money Judgment Act.

15 This bill would codify the doctrine of
16 comity. The bill would provide a court procedure
17 for the enforcement of foreign-country money
18 judgments; address burdens of proof of the parties;
19 revise the grounds for denying recognition of
20 foreign-country money judgments; and establish a
21 statute of limitations for recognition actions.

22
23 A BILL

24 TO BE ENTITLED

25 AN ACT

1 Relating to the legal recognition by Alabama courts
2 of money judgments issued by a foreign country; to provide for
3 the Alabama Uniform Foreign-Country Money Judgment Act; to
4 provide for a court procedure for recognizing those judgments;
5 to address burdens of proof of the parties; to revise grounds
6 for denying foreign judgments; and to establish a statute of
7 limitations for recognition of foreign judgments.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. This act may be cited as the Alabama
10 Uniform Foreign-Country Money Judgments Recognition Act.

11 Section 2. In this act:

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

13 a. the United States;

14 b. a state, district, commonwealth, territory, or
15 insular possession of the United States; or

16 c. any other government with regard to which the
17 decision in this state as to whether to recognize a judgment
18 of that government's courts is initially subject to
19 determination under the Full Faith and Credit Clause of the
20 United States Constitution.

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

23 Section 3. (a) Except as otherwise provided in
24 subsection (b), this act applies to a foreign-country judgment
25 to the extent that the judgment:

26 (1) grants or denies recovery of a sum of money; and

1 (2) under the law of the foreign country where
2 rendered, is final, conclusive, and enforceable.

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

6 (1) a judgment for taxes;

7 (2) a fine or other penalty; or

8 (3) a judgment for divorce, support, or maintenance,
9 or other judgment rendered in connection with domestic
10 relations.

11 (c) A party seeking recognition of a foreign-country
12 judgment has the burden of establishing that this act applies
13 to the foreign-country judgment.

14 Section 4. (a) Except as otherwise provided in
15 subsections (b) and (c), a court of this state shall recognize
16 a foreign-country judgment to which this act applies.

17 (b) A court of this state shall not recognize a
18 foreign-country judgment if:

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

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

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

26 (c) A court of this state need not recognize a
27 foreign-country judgment if:

1 (1) the defendant in the proceeding in the foreign
2 court did not receive notice of the proceeding in sufficient
3 time to enable the defendant to defend;

4 (2) the judgment was obtained by fraud that deprived
5 the losing party of an adequate opportunity to present its
6 case;

7 (3) the judgment or the claim for relief on which
8 the judgment is based is repugnant to the public policy of
9 this state or of the United States;

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

12 (5) the proceeding in the foreign court was contrary
13 to an agreement between the parties under which the dispute in
14 question was to be determined otherwise than by proceedings in
15 that foreign court;

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

19 (7) the judgment was rendered in circumstances that
20 raise substantial doubt about the integrity of the rendering
21 court with respect to the judgment; or

22 (8) the specific proceeding in the foreign court
23 leading to the judgment was not compatible with the
24 requirements of due process of law.

25 (d) A party resisting recognition of a
26 foreign-country judgment has the burden of establishing that a

1 ground for nonrecognition stated in subsection (b) or (c)
2 exists.

3 Section 5. (a) A foreign-country judgment may not be
4 refused recognition for lack of personal jurisdiction if:

5 (1) the defendant was served with process personally
6 in the foreign country;

7 (2) the defendant voluntarily appeared in the
8 proceeding, other than for the purpose of protecting property
9 seized or threatened with seizure in the proceeding or of
10 contesting the jurisdiction of the court over the defendant;

11 (3) the defendant, before the commencement of the
12 proceeding, had agreed to submit to the jurisdiction of the
13 foreign court with respect to the subject matter involved;

14 (4) the defendant was domiciled in the foreign
15 country when the proceeding was instituted or was a
16 corporation or other form of business organization that has
17 its principal place of business in, or was organized under the
18 laws of, the foreign country;

19 (5) the defendant had a business office in the
20 foreign country and the proceeding in the foreign court
21 involved a claim for relief arising out of business done by
22 the defendant through that office in the foreign country; or

23 (6) the defendant operated a motor vehicle or
24 airplane in the foreign country and the proceeding involved a
25 claim for relief arising out of that operation.

26 (b) The list of bases for personal jurisdiction in
27 subsection (a) is not exclusive. The courts of this state may

1 recognize bases of personal jurisdiction other than those
2 listed in subsection (a) as sufficient to support a
3 foreign-country judgment.

4 Section 6. (a) If recognition of a foreign-country
5 judgment is sought as an original matter, the issue of
6 recognition shall be raised by filing an action seeking
7 recognition of the foreign-country judgment.

8 (b) If recognition of a foreign-country judgment is
9 sought in a pending action, the issue of recognition may be
10 raised by counterclaim, cross-claim, or affirmative defense.

11 (c) The party seeking recognition is required to
12 provide the court with a certified copy of the judgment, and
13 if not in English, an English translation which complies with
14 the requirements of Alabama law.

15 Section 7. If the court in a proceeding under
16 Section 6 finds that the foreign-country judgment is entitled
17 to recognition under this act, then, to the extent that the
18 foreign-country judgment grants or denies recovery of a sum of
19 money, the foreign-country judgment is:

20 (1) conclusive between the parties to the same
21 extent as the judgment of a sister state entitled to full
22 faith and credit in this state would be conclusive; and

23 (2) enforceable in the same manner and to the same
24 extent as a judgment rendered in this state.

25 Section 8. If a party establishes that an appeal
26 from a foreign-country judgment is pending or will be taken,
27 the court may stay any proceedings with regard to the

1 foreign-country judgment until the appeal is concluded, the
2 time for appeal expires, or the appellant has had sufficient
3 time to prosecute the appeal and has failed to do so.

4 Section 9. An action to recognize a foreign-country
5 judgment must be commenced within the later of the time during
6 which the foreign-country judgment is effective in the foreign
7 country or 5 years from the date that the foreign-country
8 judgment became final, conclusive, and enforceable in the
9 foreign country.

10 Section 10. In applying and construing this uniform
11 act, consideration must be given to the need to promote
12 uniformity of the law with respect to its subject matter among
13 states that enact it.

14 Section 11. This act does not prevent the
15 recognition under principles of comity or otherwise of a
16 foreign-country judgment not within the scope of this act.

17 Section 12. This act applies to all actions
18 commenced on or after the effective date of this act in which
19 the issue of recognition of a foreign-country judgment is
20 raised.

21 Section 13. This act takes effect January 1, 2013.