



**Senate Fiscal Agency**  
**P. O. Box 30036**  
**Lansing, Michigan 48909-7536**

**BILL ANALYSIS**



**Telephone: (517) 373-5383**  
**Fax: (517) 373-1986**

Senate Bill 819 (as enrolled)  
 Sponsor: Senator Gary Peters  
 Senate Committee: Judiciary  
 House Committee: Judiciary and Civil Rights

**PUBLIC ACT 502 of 1996**

Date Completed: 1-13-97

**RATIONALE**

In 1964, the National Conference of Commissioners on Uniform State Laws adopted, and recommended for the states to enact, the Uniform Enforcement of Foreign Judgments Act. The uniform Act, which thus far has been adopted by 44 states, provides that any "foreign judgment" authenticated in accordance with an act of Congress or the statutes of a state that adopts the uniform Act must be treated in the same manner as a judgment of one of the state's courts. (The uniform Act defines "foreign judgment" as any judgment, decree, or order of a court of the United States or of any other court that is entitled to full faith and credit in the state that adopts the uniform Act.)

This means, then, that if two states have adopted the uniform Act, a judgment rendered in one state must be treated in the other in the same manner as if it had been rendered in that state. On the other hand, if a state has not adopted the uniform Act, a judgment rendered in another jurisdiction cannot be enforced in the nonadopting state unless an action is brought on the judgment in that state. For instance, if a plaintiff won a judgment in Illinois (which has adopted the uniform Act), and the defendant had assets in Michigan, to collect from those assets the plaintiff would have to institute another lawsuit in Michigan. If Michigan adopted the uniform Act, however, then the Illinois judgment would be recognized by the Michigan court system. It was suggested that Michigan adopt the Uniform Enforcement of Foreign Judgments Act to address this type of situation and avoid relitigation.

**CONTENT**

**The bill creates the "Uniform Enforcement of Foreign Judgments Act" to permit judgment creditors to file in Michigan courts judgments**

**issued by a court outside of this State.** The bill will take effect on June 1, 1997.

The bill provides that a copy of any foreign judgment authenticated in accordance with an act of Congress or the laws of this State may be filed with the clerk of the circuit court, the district court, or a municipal court of this State. ("Foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court entitled to full faith and credit in this State.) The clerk must treat the foreign judgment in the same manner as a judgment of the circuit, district, or municipal court. A filed judgment will have the same effect and be subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of the circuit, district, or municipal court, and may be enforced or satisfied in a like manner.

When a foreign judgment is filed, the judgment creditor or his or her attorney must make and file with the court clerk an affidavit setting forth the name and last known address of the judgment debtor and the judgment creditor. (The bill does not define "judgment creditor" but the term generally refers to a person who has an unsatisfied judgment against another, who is the judgment debtor.) At the time of filing the foreign judgment, the judgment creditor must pay a filing fee in the amount required under the Revised Judicature Act for filing a civil action in the circuit court, district court, or municipal court, as applicable. For the purpose of determining the amount of the fee for filing in a district or municipal court, the amount in controversy will equal the amount of the foreign judgment.

Promptly after the foreign judgment and the affidavit have been filed, the clerk must mail notice of the filing of the foreign judgment to the

judgment debtor at the address provided by the judgment creditor or his or her attorney. The notice must include the name and address of the judgment creditor and his or her attorney, if any, in this State. The judgment creditor also may mail a notice of the filing to the judgment debtor and file proof of the mailing with the clerk. If proof of mailing by the judgment creditor has been filed, the clerk's failure to mail a notice of filing will not affect the enforcement proceedings.

A foreign judgment filed under the Uniform Act may not be enforced until 21 days after the date the notice of the filing is mailed.

If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court must stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

In addition, if the judgment debtor shows the court any ground upon which enforcement of a judgment of the circuit court, the district court, or a municipal court of this State would be stayed, the court must stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment required in this State.

The bill provides that postjudgment interest will be awarded in accordance with the law of the jurisdiction in which the judgment was awarded.

A judgment creditor may bring an action to enforce his or her judgment instead of proceeding under the Act.

The bill provides that it is to be "so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it".

MCL 691.1171-691.1179

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Article IV, Section 1 of the United States Constitution requires each state to give "full faith and credit" to the judicial proceedings of every

other state. Michigan, however, has no current procedures to comply with this requirement. When someone wants to enforce another state's judgment in Michigan (by garnishing wages or seizing assets, for example), he or she must file a new complaint in a Michigan court, and attach the out-of-state judgment as an exhibit. If the defendant does not object, the court will render a default judgment for the plaintiff. If the defendant does raise a defense, the matter must be relitigated, although considerable weight is given to the out-of-state judgment. Under the bill, a person simply will have to file an out-of-state judgment with a Michigan court, and the person or the court clerk must give notice of the filing to the defendant. The judgment may not be enforced until 21 days after notice is mailed, and the defendant will have the opportunity to seek a stay of enforcement. This will reduce the number of cases brought before Michigan courts and bring Michigan into compliance with the U.S. Constitution's full faith and credit clause. As noted by the National Conference of Commissioners on Uniform State Laws, the uniform Act "...relieves creditors and debtors of the additional cost and harassment of further litigation which would otherwise be incident to the enforcement of [a] foreign judgment".

### **Supporting Argument**

The bill complements a law that Michigan enacted in 1967, the Uniform Foreign Money-Judgments Recognition Act (MCL 691.1151-691.1159). That law provides for the recognition of money judgments rendered in another *country* while Senate Bill 819 contains procedural provisions for the enforcement of judgments of courts in other states.

Legislative Analyst: S. Margules

### **FISCAL IMPACT**

The bill will have no significant fiscal impact on the courts since the procedures outlined in the bill are currently executed.

Fiscal Analyst: M. Ortiz

A9596\S819EA

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.