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BILL ANALYSIS



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Senate Bill 819 (as introduced 1-25-96)
Sponsor: Senator Gary Peters
Committee: Judiciary

Date Completed: 9-24-96

CONTENT

The bill would create 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 provides that a copy of any foreign judgment authenticated in accordance with an act of Congress or the laws of this State could be filed with the clerk of the circuit court, the district court, or a municipal court of this State. ("Foreign judgment" would mean 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 would have to treat the foreign judgment in the same manner as a judgment of the circuit, district, or municipal court. A filed judgment would have the same effect and would 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 could be enforced or satisfied in a like manner.

When a foreign judgment was filed, the judgment creditor or his or her attorney would have to 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 would not define "judgment creditor" but the term generally refers to a person who has an unsatisfied judgment against another, who is the judgment debtor.) The clerk would be required promptly to 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 would have to include the name and address of the judgment creditor and his or her attorney, if any, in this State. The judgment creditor also could 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 had been filed, the clerk's failure to mail a notice of filing would not affect the enforcement proceedings.

A foreign judgment filed under the proposed Act could not be enforced until 20 days after the date the judgment was filed.

If the judgment debtor showed the court that an appeal from the foreign judgment was pending or would be taken, or that a stay of execution had been granted, the court would have to stay enforcement of the foreign judgment until the appeal was concluded, the time for appeal expired, or the stay of execution expired or was vacated, upon proof that the judgment debtor had furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

In addition, if the judgment debtor showed 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 would have to stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment required in this State.

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

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

Legislative Analyst: S. Margules

FISCAL IMPACT

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

Fiscal Analyst: M. Ortiz

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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.