

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4650

A bill to revise the standards under which courts of this state recognize foreign money judgments; to establish procedures for the recognition of foreign money judgments; to limit the time within which an action to enforce a foreign money judgment may be commenced; to make uniform the law relating to the enforcement of foreign money judgments; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "uniform foreign-country money judgments recognition act".

3 Sec. 2. As used in this act:

4 (a) "Foreign country" means a government other than any of the
5 following:

6 (i) The United States.

1 (ii) A state, district, commonwealth, territory, or insular
2 possession of the United States.

3 (iii) A federally recognized Indian tribe whose tribal court
4 judgments are entitled to recognition and presumed to be valid
5 under a court rule adopted by the supreme court.

6 (iv) Any other government with regard to which the decision in
7 this state as to whether to recognize a judgment of that
8 government's courts is initially subject to determination under the
9 full faith and credit clause of the United States constitution.

10 (b) "Foreign-country judgment" means a judgment of a court of
11 a foreign country.

12 Sec. 3. (1) Except as otherwise provided in subsection (2),
13 this act applies to a foreign-country judgment to the extent that
14 both of the following apply:

15 (a) The judgment grants or denies recovery of a sum of money.

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

18 (2) This act does not apply to a foreign-country judgment,
19 even if the judgment grants or denies recovery of a sum of money,
20 to the extent that the judgment is any of the following:

21 (a) A judgment for taxes.

22 (b) A fine or other penalty.

23 (c) A judgment for divorce, support, or maintenance or other
24 judgment rendered in connection with domestic relations.

25 (3) A party seeking recognition of a foreign-country judgment
26 has the burden of establishing that this act applies to the
27 foreign-country judgment.

1 Sec. 4. (1) Except as otherwise provided in subsections (2)
2 and (3), a court of this state shall recognize a foreign-country
3 judgment to which this act applies.

4 (2) A court of this state shall not recognize a foreign-
5 country judgment if any of the following apply:

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

9 (b) The foreign court did not have personal jurisdiction over
10 the defendant.

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

13 (3) A court of this state need not recognize a foreign-country
14 judgment if any of the following apply:

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

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

20 (c) The judgment or the cause of action on which the judgment
21 is based is repugnant to the public policy of this state or of the
22 United States.

23 (d) The judgment conflicts with another final and conclusive
24 judgment.

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

1 court.

2 (f) If jurisdiction was based only on personal service, the
3 foreign court was a seriously inconvenient forum for the trial of
4 the action.

5 (g) The judgment was rendered in circumstances that raise
6 substantial doubt about the integrity of the rendering court with
7 respect to the judgment.

8 (h) The specific proceeding in the foreign court leading to
9 the judgment was not compatible with the requirements of due
10 process of law.

11 (4) A party resisting recognition of a foreign-country
12 judgment has the burden of establishing that a ground for
13 nonrecognition stated in subsection (2) or (3) exists.

14 Sec. 5. (1) A foreign-country judgment shall not be refused
15 recognition for lack of personal jurisdiction if any of the
16 following apply:

17 (a) The defendant was served with process personally in the
18 foreign country.

19 (b) The defendant voluntarily appeared in the proceeding,
20 other than for the purpose of protecting property seized or
21 threatened with seizure in the proceeding or of contesting the
22 jurisdiction of the court over the defendant.

23 (c) The defendant, before the commencement of the proceeding,
24 agreed to submit to the jurisdiction of the foreign court with
25 respect to the subject matter involved.

26 (d) The defendant was domiciled in the foreign country when
27 the proceeding was instituted or was a corporation or other form of

1 business organization that had its principal place of business in,
2 or was organized under the laws of, the foreign country.

3 (e) The defendant had a business office in the foreign country
4 and the proceeding in the foreign court involved a cause of action
5 arising out of business done by the defendant through that office
6 in the foreign country.

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

10 (2) The list of bases for personal jurisdiction in subsection
11 (1) is not exclusive. The courts of this state may recognize bases
12 of personal jurisdiction other than those listed in subsection (1)
13 as sufficient to support a foreign-country judgment.

14 Sec. 6. (1) If recognition of a foreign-country judgment is
15 sought as an original matter, the issue of recognition shall be
16 raised by filing an action seeking recognition of the foreign-
17 country judgment.

18 (2) If recognition of a foreign-country judgment is sought in
19 a pending action, the issue of recognition may be raised by
20 counterclaim, cross-claim, or affirmative defense.

21 Sec. 7. If the court in a proceeding under section 6 finds
22 that the foreign-country judgment is entitled to recognition under
23 this act, then, to the extent that the foreign-country judgment
24 grants or denies recovery of a sum of money, the foreign-country
25 judgment is both of the following:

26 (a) Conclusive between the parties to the same extent as the
27 judgment of a sister state entitled to full faith and credit in

1 this state would be conclusive.

2 (b) Enforceable in the same manner and to the same extent as a
3 judgment rendered in this state.

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

10 Sec. 9. An action to recognize a foreign-country judgment
11 shall be commenced within the earlier of the time during which the
12 foreign-country judgment is effective in the foreign country or 15
13 years from the date that the foreign-country judgment became
14 effective in the foreign country.

15 Sec. 10. In applying and construing this uniform act, a court
16 shall consider the need to promote uniformity of the law with
17 respect to its subject matter among states that enact it.

18 Sec. 11. This act does not prevent the recognition under
19 principles of comity or otherwise of a foreign-country judgment
20 that is not within the scope of this act.

21 Sec. 12. This act applies to all actions commenced on or after
22 the effective date of this act in which the issue of recognition of
23 a foreign-country judgment is raised.

24 Sec. 13. The uniform foreign money-judgments recognition act,
25 1967 PA 191, MCL 691.1151 to 691.1159, is repealed.