

## **BILL ANALYSIS**

H.B. 3174  
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Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

It has been reported that Texas residents have suffered substantial investment losses arising from the recent proliferation of offshore investment scams that purportedly invest in offshore assets or investments. Observers charge that perpetrators of these scams hide behind Caribbean-based jurisdictions to attempt to legitimize their scams and that both sophisticated and unsophisticated investors in Texas seeking guaranteed returns on their hard-earned investment dollars have fallen prey to bait-and-switch contracts resulting in foreign country judgments against innocent Texas residents. Interested parties note that legislation is required to protect Texas residents from judgments issued by foreign tribunals that lack the guarantees and protections of adequate legal due process that is traditionally afforded to litigants in Texas. H.B. 3174 seeks to address this issue by addressing matters relating to the stay of recognition or enforcement of a foreign country judgment to allow for de novo review of a contract or agreement for a sale, offer for sale, or sell under certain statutes.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 3174 amends Title 19, Vernon's Texas Civil Statutes, to entitle a party against whom recognition or enforcement of a foreign country judgment is sought, before a court's recognition or enforcement of a foreign country judgment under the Civil Practice and Remedies Code or otherwise, to de novo review by a Texas court to determine whether a party, its successors, assigns, agents, or representatives seeking recognition or enforcement of a foreign country judgment has violated The Securities Act or state deceptive trade practices law. The bill requires a party seeking de novo review under the bill's provisions, not later than the 30th day after the date of service of the notice of filing of a foreign country judgment with the court for recognition or enforcement, to file with the court a verified pleading asserting a violation of The Securities Act or state deceptive trade practices law.

H.B. 3174 establishes that a pleading filed in accordance with the bill's provisions operates as a stay of the commencement or continuation of a proceeding to recognize or enforce a foreign country judgment. The bill requires the stay to continue until the court completes its de novo review under the bill's provisions and renders a final judgment. The bill establishes that a finding by a court of a violation of The Securities Act or state deceptive trade practices law is a sufficient ground for non-recognition of a foreign country judgment. The bill makes its provisions applicable to a foreign country judgment involving a contract or agreement for a sale, offer for sale, or sell as defined by The Securities Act, or investment, that imposes an obligation of indemnification or liquidated damages on a Texas resident.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.