

## **BILL ANALYSIS**

Senate Research Center

S.B. 944  
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State Affairs  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 944 revises the Texas Foreign-Country Money Judgment Recognition Act (Act) to conform to the updated uniform Foreign-Country Money Judgments Recognition Act, which has been adopted by more than 20 states.

A recent federal court decision called into question whether the Texas Act protects Texans' individual due process rights by foreign court systems. S.B. 944 updates the Act based on the 2005 Uniform Foreign-Country Money Judgments Recognition Act, ensuring that Texans enjoy due process protection when defending against foreign country judgments in Texas courts.

According to the Uniform Law Commission, the increase in international trade in the United States has also meant more litigation in foreign judicial systems. This means more judgments to be enforced from country to country. There is strong need for uniformity between states with respect to the law governing foreign country money-judgments. There is also a strong public policy need to make sure basic individual protections and rights are recognized in any foreign court system that attempts to use our Texas courts to enforce their judgments on our citizens and businesses.

Unfortunately, not all foreign court systems honor basic individual and system due process protections recognized by U.S. state courts (such as the Texas state court system). The provisions of S.B. 944 ensure that Texans' individual due process rights continue to be recognized by foreign judicial systems before those foreign judgments are enforced by Texas courts. (Original Author's / Sponsor's Statement of Intent)

S.B. 944 amends current law relating to the adoption of the Uniform Foreign-Country Money Judgments Recognition Act.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle C, Title 2, Civil Practice and Remedies Code, by adding Chapter 36A, as follows:

#### CHAPTER 36A. ENFORCEMENT OF JUDGMENTS OF OTHER COUNTRIES

Sec. 36A.001. SHORT TITLE. Authorizes this chapter to be cited as the Uniform Foreign-Country Money Judgments Recognition Act.

Sec. 36A.002. DEFINITIONS. Defines "foreign country" and "foreign-country judgment."

Sec. 36A.003. APPLICABILITY. (a) Provides that this chapter, except as otherwise provided in Subsection (b), applies to a foreign-country judgment to the extent that the

judgment grants or denies recovery of a sum of money and, under the law of the foreign country in which the judgment is rendered, is final, conclusive, and enforceable.

(b) Provides that this chapter does not apply to a foreign-country judgment that grants or denies recovery of a sum of money to the extent that the judgment is a judgment for taxes, a fine or other penalty, or a judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic relations.

(c) Provides that a party seeking recognition of a foreign-country judgment has the burden of establishing that this chapter applies to the foreign-country judgment.

**Sec. 36A.004. STANDARDS FOR RECOGNITION OF FOREIGN-COUNTRY JUDGMENT.** (a) Requires a court of this state, except as provided in Subsections (b) and (c), to recognize a foreign-country judgment to which this chapter applies.

(b) Prohibits a court of this state from recognizing a foreign-country judgment if the judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law, the foreign court did not have personal jurisdiction over the defendant, or the foreign court did not have jurisdiction over the subject matter.

(c) Exempts a court of this state from being required to recognize a foreign-country judgment under certain circumstances.

(d) Provides that a party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for nonrecognition stated in Subsection (b) or (c) exists.

**Sec. 36A.005. PERSONAL JURISDICTION.** (a) Prohibits a foreign-country judgment from being refused recognition for lack of personal jurisdiction under certain circumstances.

(b) Provides that the list of bases for personal jurisdiction in Subsection (a) is not exclusive. Authorizes a court of this state to recognize bases of personal jurisdiction other than those listed in Subsection (a) as sufficient to support a foreign-country judgment.

**Sec. 36A.006. PROCEDURE FOR RECOGNITION OF FOREIGN-COUNTRY JUDGMENT.** (a) Authorizes the issue of recognition, if recognition of a foreign-country judgment is sought as an original matter, to be raised by filing an action seeking recognition of the foreign-country judgment.

(b) Authorizes the issue of recognition, if recognition of a foreign-country judgment is sought in a pending action, to be raised by counterclaim, cross-claim, or affirmative defense.

**Sec. 36A.007. EFFECT OF RECOGNITION OF FOREIGN-COUNTRY JUDGMENT.** Provides that if the court in a proceeding under Section 36A.006 finds that the foreign-country judgment is entitled to recognition, then, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, the foreign-country judgment is conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit in this state would be conclusive and enforceable in the same manner and to the same extent as a judgment rendered in this state.

**Sec. 36A.008. STAY OF PROCEEDINGS PENDING APPEAL OF FOREIGN-COUNTRY JUDGMENT.** Authorizes the court, if a party establishes that an appeal from a foreign-country judgment is pending or will be taken, to stay any proceedings with regard to the foreign-country judgment until the appeal is concluded, the time for appeal

expires, or the appellant has had sufficient time to prosecute the appeal and has failed to do so.

Sec. 36A.009. STATUTE OF LIMITATIONS. Requires an action to recognize a foreign-country judgment to be brought within the earlier of the time during which the foreign-country judgment is effective in the foreign country or 15 years from the date that the foreign-country judgment became effective in the foreign country.

Sec. 36A.010. UNIFORMITY OF INTERPRETATION. Requires consideration to be given, in applying and construing this chapter, to the need to promote uniformity of the law with respect to the subject matter of this chapter among states that enact a law based on the uniform act on which this chapter is based.

Sec. 36A.011. SAVING CLAUSE. Provides that this chapter does not prevent the recognition under principles of comity or otherwise of a foreign-country judgment not within the scope of this chapter.

SECTION 2. Repealer: Chapter 36 (Enforcement of Judgments of Other Countries), Civil Practice and Remedies Code.

SECTION 3. Provides that this Act applies to a pending suit in which the issue of recognition of a foreign-country judgment is or has been raised without regard to whether the suit was commenced before, on, or after the effective date of this Act.

SECTION 4. Effective date: upon passage or September 1, 2017.