

By: Clardy

H.B. No. 2122

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the adoption of the Uniform Foreign-Country Money
3 Judgments Recognition Act.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle C, Title 2, Civil Practice and Remedies
6 Code, is amended by adding Chapter 36A to read as follows:

7 CHAPTER 36A. ENFORCEMENT OF JUDGMENTS OF OTHER COUNTRIES

8 Sec. 36A.001. SHORT TITLE. This chapter may be cited as the
9 Uniform Foreign-Country Money Judgments Recognition Act.

10 Sec. 36A.002. DEFINITIONS. In this chapter:

11 (1) "Foreign country" means a government other than:

12 (A) the United States;

13 (B) a state, district, commonwealth, territory,
14 or insular possession of the United States; or

15 (C) any other government with respect to which
16 the decision in this state as to whether to recognize a judgment of
17 that government's court is initially subject to determination under
18 Section 1, Article IV, United States Constitution (the full faith
19 and credit clause).

20 (2) "Foreign-country judgment" means a judgment of a
21 court of a foreign country.

22 Sec. 36A.003. APPLICABILITY. (a) Except as otherwise
23 provided in Subsection (b), this chapter applies to a
24 foreign-country judgment to the extent that the judgment:

- 1 (1) grants or denies recovery of a sum of money; and
- 2 (2) under the law of the foreign country in which the
- 3 judgment is rendered, is final, conclusive, and enforceable.

4 (b) This chapter does not apply to a foreign-country
5 judgment that grants or denies recovery of a sum of money to the
6 extent that the judgment is:

- 7 (1) a judgment for taxes;
- 8 (2) a fine or other penalty; or
- 9 (3) a judgment for divorce, support, or maintenance,
- 10 or other judgment rendered in connection with domestic relations.

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

14 Sec. 36A.004. STANDARDS FOR RECOGNITION OF FOREIGN-COUNTRY
15 JUDGMENT. (a) Except as otherwise provided in Subsections (b) and
16 (c), a court of this state shall recognize a foreign-country
17 judgment to which this chapter applies.

18 (b) A court of this state may not recognize a
19 foreign-country judgment if:

- 20 (1) the judgment was rendered under a judicial system
- 21 that does not provide impartial tribunals or procedures compatible
- 22 with the requirements of due process of law;
- 23 (2) the foreign court did not have personal
- 24 jurisdiction over the defendant; or
- 25 (3) the foreign court did not have jurisdiction over
- 26 the subject matter.

27 (c) A court of this state is not required to recognize a

1 foreign-country judgment if:

2 (1) the defendant in the proceeding in the foreign
3 court did not receive notice of the proceeding in sufficient time to
4 enable the defendant to defend;

5 (2) the judgment was obtained by fraud that deprived
6 the losing party of an adequate opportunity to present the party's
7 case;

8 (3) the judgment or the cause of action on which the
9 judgment is based is repugnant to the public policy of this state or
10 the United States;

11 (4) the judgment conflicts with another final and
12 conclusive judgment;

13 (5) the proceeding in the foreign court was contrary
14 to an agreement between the parties under which the dispute in
15 question was to be determined otherwise than by proceedings in the
16 foreign court;

17 (6) jurisdiction was based only on personal service
18 and the foreign court was a seriously inconvenient forum for the
19 trial of the action;

20 (7) the judgment was rendered in circumstances that
21 raise substantial doubt about the integrity of the rendering court
22 with respect to the judgment;

23 (8) the specific proceeding in the foreign court
24 leading to the judgment was not compatible with the requirements of
25 due process of law; or

26 (9) it is established that the foreign country in
27 which the judgment was rendered does not recognize judgments

1 rendered in this state that, but for the fact that they are rendered
2 in this state, would constitute foreign-country judgments to which
3 this chapter would apply under Section 36A.003.

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

7 Sec. 36A.005. PERSONAL JURISDICTION. (a) A
8 foreign-country judgment may not be refused recognition for lack of
9 personal jurisdiction if:

10 (1) the defendant was served with process personally
11 in the foreign country;

12 (2) the defendant voluntarily appeared in the
13 proceeding, other than for the purpose of protecting property
14 seized or threatened with seizure in the proceeding or of
15 contesting the jurisdiction of the court over the defendant;

16 (3) the defendant, before commencement of the
17 proceeding, agreed to submit to the jurisdiction of the foreign
18 court with respect to the subject matter involved;

19 (4) the defendant was domiciled in the foreign country
20 when the proceeding was instituted or was a corporation or other
21 form of business organization whose principal place of business was
22 in, or that was organized under the laws of, the foreign country;

23 (5) the defendant had a business office in the foreign
24 country and the proceeding in the foreign court involved a cause of
25 action arising out of business done by the defendant through that
26 office in the foreign country; or

27 (6) the defendant operated a motor vehicle or airplane

1 in the foreign country and the proceeding involved a cause of action
2 arising out of that operation.

3 (b) The list of bases for personal jurisdiction in
4 Subsection (a) is not exclusive. A court of this state may
5 recognize bases of personal jurisdiction other than those listed in
6 Subsection (a) as sufficient to support a foreign-country judgment.

7 Sec. 36A.006. PROCEDURE FOR RECOGNITION OF FOREIGN-COUNTRY
8 JUDGMENT. (a) If recognition of a foreign-country judgment is
9 sought as an original matter, the issue of recognition may be raised
10 by filing an action seeking recognition of the foreign-country
11 judgment.

12 (b) If recognition of a foreign-country judgment is sought
13 in a pending action, the issue of recognition may be raised by
14 counterclaim, cross-claim, or affirmative defense.

15 Sec. 36A.007. EFFECT OF RECOGNITION OF FOREIGN-COUNTRY
16 JUDGMENT. If the court in a proceeding under Section 36A.006 finds
17 that the foreign-country judgment is entitled to recognition under
18 this chapter, then, to the extent that the foreign-country judgment
19 grants or denies recovery of a sum of money, the foreign-country
20 judgment is:

21 (1) conclusive between the parties to the same extent
22 as the judgment of a sister state entitled to full faith and credit
23 in this state would be conclusive; and

24 (2) enforceable in the same manner and to the same
25 extent as a judgment rendered in this state.

26 Sec. 36A.008. STAY OF PROCEEDINGS PENDING APPEAL OF
27 FOREIGN-COUNTRY JUDGMENT. If a party establishes that an appeal

1 from a foreign-country judgment is pending or will be taken, the
2 court may stay any proceedings with regard to the foreign-country
3 judgment until:

- 4 (1) the appeal is concluded;
5 (2) the time for appeal expires; or
6 (3) the appellant has had sufficient time to prosecute
7 the appeal and has failed to do so.

8 Sec. 36A.009. STATUTE OF LIMITATIONS. An action to
9 recognize a foreign-country judgment must be brought within the
10 earlier of:

- 11 (1) the time during which the foreign-country judgment
12 is effective in the foreign country; or
13 (2) 15 years from the date that the foreign-country
14 judgment became effective in the foreign country.

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

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

23 SECTION 2. Chapter 36, Civil Practice and Remedies Code, is
24 repealed.

25 SECTION 3. This Act applies to a pending suit in which the
26 issue of recognition of a foreign-country money judgment is or has
27 been raised without regard to whether the suit was commenced

1 before, on, or after the effective date of this Act.

2 SECTION 4. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2017.