

Senate Bill No. 639

Passed the Senate August 27, 2007

Secretary of the Senate

Passed the Assembly July 12, 2007

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to repeal and add Chapter 2 (commencing with Section 1713) of Title 11 of Part 3 of the Code of Civil Procedure, relating to judgments.

LEGISLATIVE COUNSEL'S DIGEST

SB 639, Harman. Judgments: foreign-country money judgments.

The existing Uniform Foreign Money-Judgments Recognition Act provides that foreign judgments that grant or deny recovery of a sum of money and that are final and conclusive are enforceable in California, with specified exceptions. The act excepts foreign judgments from its provisions in certain instances, including when the judgment was rendered under a system that does not provide impartial tribunals or the court lacked jurisdiction. The act prohibits nonrecognition of a foreign judgment based on a lack of personal jurisdiction if certain bases of personal jurisdiction are present. The act permits a court to grant a stay in an action to enforce a judgment if an appeal is pending or is available, as specified.

This bill would repeal the Uniform Foreign Money-Judgments Recognition Act and enact in its place the Uniform Foreign-Country Money Judgments Recognition Act. In addition to provisions of the previous act, described above, the new act would allocate the burden of proof for parties seeking or resisting recognition of a foreign-country judgment, as defined. The bill would provide a procedure for recognition of a foreign-country judgment, establish a statute of limitations on an action to recognize a foreign-country judgment, and specify the effective date of the act in relation to the date of the foreign-country judgment.

The people of the State of California do enact as follows:

SECTION 1. Chapter 2 (commencing with Section 1713) of Title 11 of Part 3 of the Code of Civil Procedure is repealed.

SEC. 2. Chapter 2 (commencing with Section 1713) is added to Title 11 of Part 3 of the Code of Civil Procedure, to read:

CHAPTER 2. FOREIGN-COUNTRY MONEY JUDGMENTS

1713. This chapter may be cited as the Uniform Foreign-Country Money Judgments Recognition Act.

1714. As used in this chapter:

(a) “Foreign country” means a government other than any of the following:

- (1) The United States.
- (2) A state, district, commonwealth, territory, or insular possession of the United States.
- (3) Any other government with regard to which the decision in this state as to whether to recognize a judgment of that government’s courts is initially subject to determination under the Full Faith and Credit Clause of the United States Constitution.

(b) “Foreign-country judgment” means a judgment of a court of a foreign country. “Foreign-country judgment” includes a judgment by any Indian tribe recognized by the government of the United States.

1715. (a) Except as otherwise provided in subdivision (b), this chapter applies to a foreign-country judgment to the extent that the judgment both:

- (1) Grants or denies recovery of a sum of money.
- (2) Under the law of the foreign country where rendered, is final, conclusive, and enforceable.

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

- (1) A judgment for taxes.
- (2) A fine or other penalty.
- (3) (A) A judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic relations.
(B) A judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic relations may be recognized by a court of this state pursuant to Section 1723.

(c) A party seeking recognition of a foreign-country judgment has the burden of establishing that the foreign-country judgment is entitled to recognition under this chapter.

1716. (a) Except as otherwise provided in subdivisions (b) and (c), a court of this state shall recognize a foreign-country judgment to which this chapter applies.

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

(1) 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.

(2) The foreign court did not have personal jurisdiction over the defendant.

(3) The foreign court did not have jurisdiction over the subject matter.

(c) A court of this state is not required to recognize a foreign-country judgment if any of the following apply:

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

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

(3) The judgment or the cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this state or of the United States.

(4) The judgment conflicts with another final and conclusive judgment.

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

(6) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

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

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

(d) When the party seeking recognition of a foreign-country judgment has met its burden of establishing recognition of the foreign-country judgment pursuant to subdivision (c) of Section 1715, a party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for nonrecognition stated in subdivision (b) or (c) exists.

1717. (a) A foreign-country judgment shall not be refused recognition for lack of personal jurisdiction if any of the following apply:

(1) The defendant was served with process personally in the foreign country.

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

(3) The defendant, before the commencement of the proceeding, had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved.

(4) The defendant was domiciled in the foreign country when the proceeding was instituted or was a corporation or other form of business organization that had its principal place of business in, or was organized under the laws of, the foreign country.

(5) The defendant had a business office in the foreign country and the proceeding in the foreign court involved a cause of action or claim for relief arising out of business done by the defendant through that office in the foreign country.

(6) The defendant operated a motor vehicle or airplane in the foreign country and the proceeding involved a cause of action or claim for relief arising out of that operation.

(b) The list of bases for personal jurisdiction in subdivision (a) is not exclusive. The courts of this state may recognize bases of personal jurisdiction other than those listed in subdivision (a) as sufficient to support a foreign-country judgment.

1718. (a) If recognition of a foreign-country judgment is sought as an original matter, the issue of recognition shall be raised by filing an action seeking recognition of the foreign-country judgment.

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

1719. If the court in a proceeding under Section 1718 finds that the foreign-country judgment is entitled to recognition under this chapter then, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, the foreign-country judgment is both of the following:

(a) 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.

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

1720. If a party establishes that an appeal from a foreign-country judgment is pending or will be taken in the foreign country, the court may 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.

1721. An action to recognize a foreign-country judgment shall be commenced within the earlier of the time during which the foreign-country judgment is effective in the foreign country or 10 years from the date that the foreign-country judgment became effective in the foreign country.

1722. In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

1723. 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.

1724. (a) This chapter applies to all actions commenced on or after the effective date of this chapter in which the issue of recognition of a foreign-country judgment is raised.

(b) The former Uniform Foreign Money-Judgments Recognition Act (Chapter 2 (commencing with Section 1713) of Title 11 of Part 3) applies to all actions commenced before the effective date of this chapter in which the issue of recognition of a foreign-country judgment is raised.

Approved _____, 2007

Governor