

House Study Bill 224

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON SWAIM)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the recognition and enforcement of
2 foreign-country money judgments and providing for the Act's
3 applicability.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1959HC 83
6 da/rj/5

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1 1 DIVISION I
1 2 UNIFORM FOREIGN=COUNTRY MONEY JUDGMENTS RECOGNITION ACT
1 3 Section 1. NEW SECTION. 626B.101 SHORT TITLE.
1 4 This chapter may be cited as the "Uniform Foreign=Country
1 5 Money Judgments Recognition Act".
1 6 Sec. 2. NEW SECTION. 626B.102 DEFINITIONS.
1 7 As used in this chapter:
1 8 1. "Foreign country" means a government other than any of
1 9 the following:
1 10 a. The United States.
1 11 b. A state, district, commonwealth, territory, or insular
1 12 possession of the United States.
1 13 c. Any other government with regard to which the decision
1 14 in this state as to whether to recognize a judgment of that
1 15 government's courts is initially subject to determination
1 16 under the full faith and credit clause of Article IV, section
1 17 1, of the Constitution of the United States.
1 18 d. Any Indian or Alaska native tribe, band, nation,
1 19 pueblo, village, or community that the United States secretary
1 20 of the interior recognizes as an Indian tribe.
1 21 2. "Foreign-country judgment" means a judgment of a court
1 22 of a foreign country.
1 23 Sec. 3. NEW SECTION. 626B.103 APPLICABILITY.
1 24 1. Except as otherwise provided in subsection 2, this
1 25 chapter applies to a foreign-country judgment to the extent
1 26 that all of the following apply to the judgment:
1 27 a. It grants or denies recovery of a sum of money.
1 28 b. Under the law of the foreign country where rendered, it
1 29 is final, conclusive, and enforceable.
1 30 2. This chapter does not apply to a foreign-country
1 31 judgment, even if the judgment grants or denies recovery of a
1 32 sum of money, to the extent that the judgment is any of the
1 33 following:
1 34 a. A judgment for taxes.
1 35 b. A fine or other penalty.
2 1 c. A judgment for divorce, support, or maintenance, or
2 2 other judgment rendered in connection with domestic relations.
2 3 3. A party seeking recognition of a foreign-country
2 4 judgment has the burden of establishing that this chapter
2 5 applies to the foreign-country judgment.
2 6 Sec. 4. NEW SECTION. 626B.104 STANDARDS FOR RECOGNITION
2 7 OF FOREIGN=COUNTRY JUDGMENT.
2 8 1. Except as otherwise provided in subsections 2 and 3, a
2 9 court of this state shall recognize a foreign-country judgment
2 10 to which this chapter applies.
2 11 2. A court of this state shall not recognize a
2 12 foreign-country judgment if any of the following applies:
2 13 a. The judgment was rendered under a judicial system that
2 14 does not provide impartial tribunals or procedures compatible
2 15 with the requirements of due process of law.
2 16 b. The foreign court did not have personal jurisdiction
2 17 over the defendant.

2 18 c. The foreign court did not have jurisdiction over the
2 19 subject matter.

2 20 3. A court of this state need not recognize a
2 21 foreign=country judgment if any of the following apply:

2 22 a. The defendant in the proceeding in the foreign court
2 23 did not receive notice of the proceeding in sufficient time to
2 24 enable the defendant to defend.

2 25 b. The judgment was obtained by fraud that deprived the
2 26 losing party of an adequate opportunity to present its case.

2 27 c. The judgment or the cause of action on which the
2 28 judgment is based is repugnant to the public policy of this
2 29 state or of the United States.

2 30 d. The judgment conflicts with another final and
2 31 conclusive judgment.

2 32 e. The proceeding in the foreign court was contrary to an
2 33 agreement between the parties under which the dispute in
2 34 question was to be determined otherwise than by proceedings in
2 35 that foreign court.

3 1 f. In the case of jurisdiction based only on personal
3 2 service, the foreign court was a seriously inconvenient forum
3 3 for the trial of the action.

3 4 g. The judgment was rendered in circumstances that raise
3 5 substantial doubt about the integrity of the rendering court
3 6 with respect to the judgment.

3 7 h. The specific proceeding in the foreign court leading to
3 8 the judgment was not compatible with the requirements of due
3 9 process of law.

3 10 4. A party resisting recognition of a foreign=country
3 11 judgment has the burden of establishing that a ground for
3 12 nonrecognition stated in subsection 2 or 3 exists.

3 13 Sec. 5. NEW SECTION. 626B.105 PERSONAL JURISDICTION.

3 14 1. A foreign=country judgment shall not be refused
3 15 recognition for lack of personal jurisdiction if any of the
3 16 following apply:

3 17 a. The defendant was served with process personally in the
3 18 foreign country.

3 19 b. The defendant voluntarily appeared in the proceeding,
3 20 other than for the purpose of protecting property seized or
3 21 threatened with seizure in the proceeding or of contesting the
3 22 jurisdiction of the court over the defendant.

3 23 c. The defendant, before the commencement of the
3 24 proceeding, had agreed to submit to the jurisdiction of the
3 25 foreign court with respect to the subject matter involved.

3 26 d. The defendant was domiciled in the foreign country when
3 27 the proceeding was instituted or was a corporation or other
3 28 form of business organization that had its principal place of
3 29 business in, or was organized under the laws of, the foreign
3 30 country.

3 31 e. The defendant had a business office in the foreign
3 32 country and the proceeding in the foreign court involved a
3 33 cause of action arising out of business done by the defendant
3 34 through that office in the foreign country.

3 35 f. The defendant operated a motor vehicle or airplane in
4 1 the foreign country and the proceeding involved a cause of
4 2 action arising out of that operation.

4 3 2. The list of bases for personal jurisdiction in
4 4 subsection 1 is not exclusive. The courts of this state may
4 5 recognize bases of personal jurisdiction other than those
4 6 listed in subsection 1 as sufficient to support a
4 7 foreign=country judgment.

4 8 Sec. 6. NEW SECTION. 626B.106 PROCEDURE FOR RECOGNITION
4 9 OF FOREIGN=COUNTRY JUDGMENT.

4 10 1. If recognition of a foreign=country judgment is sought
4 11 as an original matter, the issue of recognition shall be
4 12 raised by filing an action seeking recognition of the
4 13 foreign=country judgment.

4 14 2. If recognition of a foreign=country judgment is sought
4 15 in a pending action, the issue of recognition may be raised by
4 16 counterclaim, cross=claim, or affirmative defense.

4 17 Sec. 7. NEW SECTION. 626B.107 EFFECT OF RECOGNITION OF
4 18 FOREIGN=COUNTRY JUDGMENT.

4 19 If the court in a proceeding under section 626B.106 finds
4 20 that the foreign=country judgment is entitled to recognition
4 21 under this chapter then, to the extent that the
4 22 foreign=country judgment grants or denies recovery of a sum of
4 23 money, the foreign=country judgment is all of the following:

4 24 1. Conclusive between the parties to the same extent as
4 25 the judgment of a sister state entitled to full faith and
4 26 credit in this state would be conclusive.

4 27 2. Enforceable in the same manner and to the same extent
4 28 as a judgment rendered in this state.

4 29 Sec. 8. NEW SECTION. 626B.108 STAY OF PROCEEDINGS
4 30 PENDING APPEAL OF FOREIGN=COUNTRY JUDGMENT.
4 31 If a party establishes that an appeal from a
4 32 foreign=country judgment is pending or will be taken, the
4 33 court may stay any proceedings with regard to the
4 34 foreign=country judgment until the appeal is concluded, the
4 35 time for appeal expires, or the appellant has had sufficient
5 1 time to prosecute the appeal and has failed to do so.

5 2 Sec. 9. NEW SECTION. 626B.109 STATUTE OF LIMITATIONS.
5 3 An action to recognize a foreign=country judgment must be
5 4 commenced within the earlier of the time during which the
5 5 foreign=country judgment is effective in the foreign country
5 6 or fifteen years from the date that the foreign=country
5 7 judgment became effective in the foreign country.

5 8 Sec. 10. NEW SECTION. 626B.110 UNIFORMITY OF
5 9 INTERPRETATION.
5 10 In applying and construing this chapter, consideration must
5 11 be given to the need to promote uniformity of the law with
5 12 respect to its subject matter among states that enact the
5 13 "Uniform Foreign=Country Money Judgments Recognition Act".

5 14 Sec. 11. NEW SECTION. 626B.111 SAVING CLAUSE.
5 15 This chapter does not prevent the recognition under
5 16 principles of comity or otherwise of a foreign=country
5 17 judgment not within the scope of this chapter.

5 18 Sec. 12. APPLICABILITY TO ACTIONS COMMENCED ON OR AFTER
5 19 THE EFFECTIVE DATE OF THIS ACT. This Act applies to all
5 20 actions commenced on or after the effective date of this Act
5 21 in which the issue of recognition of a foreign=country
5 22 judgment is raised.

5 23 DIVISION II
5 24 CONFORMING PROVISIONS

5 25 Sec. 13. Section 624.24, Code 2009, is amended to read as
5 26 follows:

5 27 624.24 WHEN JUDGMENT LIEN ATTACHES.

5 28 When the real estate lies in the county wherein the
5 29 judgment of the district court of this state or of the circuit
5 30 or district courts of the United States was entered in the
5 31 judgment docket and lien index kept by the clerk of the court
5 32 having jurisdiction, the lien shall attach from the date of
5 33 such entry of judgment, but if in another it will not attach
5 34 until an attested copy of the judgment is filed in the office
5 35 of the clerk of the district court of the county in which the
6 1 real estate lies except for a foreign judgments judgment
6 2 pursuant to ~~chapters chapter 626A, and foreign=country money~~
6 3 ~~judgment pursuant to chapter 626B, and or tribal judgments as~~
6 4 ~~defined in section 626D.2 court judgment pursuant to chapter~~
6 5 ~~626D, which shall not attach until an appeal is proceedings to~~
6 6 ~~challenge such judgment as authorized by its chapter have been~~
6 7 ~~concluded, and the time for the appeal has expired, or the~~
6 8 ~~stay of execution has expired or was vacated pursuant to~~
6 9 ~~section 626A.4, 626B.3, 626B.5, or 626D.7 district court finds~~
6 10 ~~that any such judgment is entitled to recognition. In such~~

6 11 cases, the lien shall attach on the date the clerk of court
6 12 files an attested copy of the judgment in the office of the
6 13 clerk of the district court of the county in which the real
6 14 estate lies in any of the following circumstances:

6 15 1. ~~The foreign or tribal judgment has not been appealed~~
6 16 ~~and the time for filing an appeal has expired.~~

6 17 2. ~~The foreign or tribal judgment has been appealed and~~
6 18 ~~the judgment has been affirmed on appeal and is not subject to~~
6 19 ~~further appeal.~~

6 20 3. ~~An appeal from a foreign or tribal judgment has been~~
6 21 ~~filed and a stay from such judgment has not been granted by~~
6 22 ~~the district court to the appealing party.~~

6 23 DIVISION III
6 24 REPEALS

6 25 Sec. 14. Sections 626B.1, 626B.2, 626B.3, 626B.4, 626B.5,
6 26 626B.6, 626B.7, and 626B.8, Code 2009, are repealed.

6 27 EXPLANATION

6 28 BACKGROUND. This bill provides for the enactment of the
6 29 "Uniform Foreign=Country Money Judgments Recognition Act"
6 30 promulgated in 2005 by the National Conference of
6 31 Commissioners on Uniform State Laws (NCCUSL). Its purpose is
6 32 to provide for the uniform enforcement of foreign=country
6 33 judgments in all state courts. The bill is a revision of a
6 34 model act adopted by NCCUSL in 1962, and enacted by the
6 35 general assembly in 1989 (1989 Iowa Acts, chapter 173). The
7 1 bill replaces the provisions of the old model Act and enacts
7 2 new provisions in the same Code chapter 626B.

7 3 OPERATION. The bill provides for how a state court may
7 4 recognize a foreign=country judgment for purposes of

7 5 enforcement. Once recognized, the judgment creditor may
7 6 proceed against a judgment debtor's property to satisfy the
7 7 judgment amount. In addition, once the foreign=country
7 8 judgment is recognized, it is conclusive between the parties
7 9 (Code section 626B.107(1)) and may be enforced as if it were a
7 10 judgment of a sister state, subject to full faith and credit
7 11 (Code section 626B.107(2)).

7 12 In order for district court to recognize a foreign=country
7 13 judgment district, two conditions must be satisfied. First,
7 14 the judgment must grant or deny the recovery of money (Code
7 15 section 626.103(1)(a)) and second, the judgment must be final,
7 16 conclusive, and enforceable in that foreign=country country
7 17 (Code section 626B.103(1)(b)).

7 18 EXCEPTIONS. Two classes of exceptions apply to deny
7 19 recognition. First, certain money judgments are excluded
7 20 including judgments on taxes, fines or other penalties, and
7 21 judgments relating to divorce or domestic relations (Code
7 22 section 626B.103(1)(b)). Second, the foreign=country
7 23 proceedings or the foreign=country judgment are excluded if
7 24 they are objectionable. In some cases, denial is mandatory
7 25 and in other cases it is left to the discretion of the
7 26 district court. The district court must deny recognition if
7 27 the foreign=country court was biased or provided inadequate
7 28 standards for due process or there was a lack of jurisdiction,
7 29 either personal jurisdiction over the defendant or subject
7 30 matter jurisdiction (Code section 626B.104(2)). There are
7 31 detailed standards set forth for when personal jurisdiction
7 32 standards are satisfied (Code section 626B.105). In addition,
7 33 the district court may deny recognition based on any one of a
7 34 number of grounds generally based on serious defects in the
7 35 foreign=country court's proceedings, conflicts with another
8 1 final and conclusive judgment, or because of public policy
8 2 (Code section 626B.104(3)).

8 3 PROCEDURE. The party seeking to enforce a foreign=country
8 4 judgment may bring an original cause of action in district
8 5 court (Code section 626B.106(1)) or may file a counterclaim,
8 6 cross=claim, or affirmative defense in a pending action (Code
8 7 section 626B.106(2)). The party seeking recognition of the
8 8 foreign=country judgment has the burden to prove that it is
8 9 subject to the bill's provisions (Code section 626B.103(3)).
8 10 Once it is determined that recognition may be granted, the
8 11 burden shifts to the resisting party to prove a specific
8 12 ground exists for denying recognition (Code section
8 13 626B.104(4)). The district court may stay a proceeding if a
8 14 party establishes that an appeal of a foreign=country judgment
8 15 is pending, until the issue is resolved (Code section
8 16 626B.108).

8 17 STATUTE OF LIMITATIONS. A special statute of limitations
8 18 applies to enforcement of a foreign=country judgment. The
8 19 limitation either applies at the end of the period in the
8 20 foreign country when the judgment can no longer be enforced
8 21 under its law, or if there is no statute of limitations in the
8 22 foreign country, after 15 years from the time the judgment is
8 23 effective in the foreign country, whichever is earlier (Code
8 24 section 626B.109).

8 25 APPLICABILITY. The new provisions in the bill apply to all
8 26 actions commenced on or after the effective date of the bill
8 27 in which the issue of recognition of a foreign=country
8 28 judgment is raised.

8 29 DEVIATION FROM THE MODEL ACT. The bill provides that a
8 30 foreign country does not include an Indian or Alaska native
8 31 community that the United States secretary of the interior
8 32 recognizes as an Indian tribe (these judgments are recognized
8 33 in Code chapter 626D).

8 34 CONFORMING PROVISIONS. The bill amends Code section 626.24
8 35 which provides for the attachment of a lien in cases of
9 1 foreign=country money judgments (Code chapter 626B) as well as
9 2 a foreign judgment (Code chapter 626A) or tribal judgment
9 3 (Code chapter 626D). In all these cases, a lien cannot attach
9 4 until proceedings to challenge the judgment have been
9 5 concluded and the judgment is recognized by the district
9 6 court.