



SPONSOR: Rep. George & Sen. Blevins
Rep. Bennett

HOUSE OF REPRESENTATIVES

146th GENERAL ASSEMBLY

HOUSE BILL NO. 104
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE UNIFORM RECOGNITION OF FOREIGN-COUNTRY MONEY JUDGMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 48, Title 10 by deleting its title "Uniform Foreign Money-Judgments Recognition Act" in its entirety and by substituting in lieu thereof the new title "Uniform Foreign-Country Money Judgments Recognition Act."

Section 2. Amend §§ 4801-4803 of Title 10 by deleting these sections in their entirety and by substituting in lieu thereof new §§ 4801-4803 to read as follows:

"§ 4801. Definitions.

In this chapter:

(1) 'Foreign country' means a government other than:

(a) the United States;

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

(c) 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.

(2) 'Foreign-country judgment' means a judgment of a court of a foreign country.

§ 4802. Applicability.

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

- (1) grants or denies recovery of a sum of money; and
- (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:

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

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

§ 4803. Standards for recognition of foreign-country judgment.

(a) Except as otherwise provided in subsections (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 may not recognize a foreign-country judgment if:

(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; or

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

(c) A court of this state need not recognize a foreign-country judgment if:

(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 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; or

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

(d) 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.”

Section 3. Amend § 4804 of Title 10 by deleting it in its entirety.

Section 4. Amend § 4805(a) of Title 10 by deleting the words “The foreign” and by substituting in lieu thereof the words “A foreign-country” and by deleting the word “shall” and by substituting in lieu thereof the word “may.”

Section 5. Amend § 4805(a)(1) of Title 10 by inserting the phrase “with process” after the words “defendant was served” and by deleting the word “state” and by substituting in lieu thereof the word “country.”

Section 6. Amend § 4805(a)(4) of Title 10 by deleting it in its entirety and substituting in lieu thereof a new subsection to read as follows:

“(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;”

Section 7. Amend § 4805(a)(5) of Title 10 by deleting the word “state” and by substituting in lieu thereof the word “country” in both instances.

Section 8. Amend § 4805(a)(6) of Title 10 by deleting the word “state” and by substituting in lieu thereof the word “country.”

Section 9. Amend § 4805(b) of Title 10 by deleting it in its entirety and by substituting in lieu thereof a new subsection to read as follows:

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

Section 10. Amend § 4806 of Title 10 by deleting it in its entirety and by substituting in lieu thereof a new subsection to read as follows:

“§ 4806. Stay of proceedings pending appeal of foreign-country judgment.

If a party establishes that an appeal from a foreign-country judgment is pending or will be taken, 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.”

Section 11. Amend § 4807 of Title 10 by adding the words “under principles of comity or otherwise” after the words “prevent the recognition”; by deleting the word “foreign” and by substituting in lieu thereof the words “foreign-country”; by deleting the words “in situations”; and by deleting the words “covered by” and by substituting in lieu thereof the words “within the scope of.”

Section 12. Amend § 4808 of Title 10 by deleting it in its entirety and by substituting in lieu thereof a new subsection to read as follows:

“§ 4808. Uniformity of Interpretation. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.”

Section 13. Amend Chapter 48, Title 10 to add new §§ 4809-4812 to read as follows:

“§ 4809. Procedure for recognition of foreign-country judgment.

(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.

§ 4810. Effect of recognition of foreign-country judgment.

If the court in a proceeding under § 4809 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:

(1) 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

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

§ 4811. Statute of Limitations.

An action to recognize a foreign-country judgment must be commenced 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.

§ 4812. Effective date.

(a) This chapter takes effect upon enactment.

(b) 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.”