



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

HOUSE OF REPRESENTATIVES
146th GENERAL ASSEMBLY

HOUSE BILL NO. 104

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:

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

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

6 “§ 4801. Definitions.

7 In this chapter:

8 (1) ‘Foreign country’ means a government other than:

9 (a) the United States;

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

11 (c) any other government with regard to which the decision in this state as to whether to recognize a judgment of
12 that government’s courts is initially subject to determination under the Full Faith and Credit Clause of the United States
13 Constitution.

14 (2) ‘Foreign-country judgment’ means a judgment of a court of a foreign country.

15 § 4802. Applicability.

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

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

19 (2) under the law of the foreign country where rendered, is final, conclusive, and enforceable.

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

22 (1) a judgment for taxes;

23 (2) a fine or other penalty; or
24 (3) a judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic
25 relations.

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

28 § 4803. Standards for recognition of foreign-country judgment.

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

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

32 (1) the judgment was rendered under a judicial system that does not provide impartial tribunals or procedures
33 compatible with the requirements of due process of law;

34 (2) the foreign court did not have personal jurisdiction over the defendant; or

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

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

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

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

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

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

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

46 (6) in the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum
47 for the trial of the action;

48 (7) the judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering
49 court with respect to the judgment; or

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

52 (d) A party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for
53 nonrecognition stated in subsection (b) or (c) exists.”

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

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

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

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

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

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

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

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

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

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

75 “§ 4806. Stay of proceedings pending appeal of foreign-count judgment.

76 If a party establishes that an appeal from a foreign-country judgment is pending or will be taken, the court may
77 stay any proceedings with regard to the foreign-country judgment until the appeal is concluded, the time for appeal expires,
78 or the appellant has had sufficient time to prosecute the appeal and has failed to do so.”

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

81 country”; by deleting the words “in situations”; and by deleting the words “covered by” and by substituting in lieu thereof
82 the words “within the scope of.”

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

85 “§ 4808. Uniformity of Interpretation. In applying and construing this chapter, consideration must be given to the
86 need to promote uniformity of the law with respect to its subject matter among states that enact it.”

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

88 “§ 4809. Procedure for recognition of foreign-country judgment.

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

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

93 § 4810. Effect of recognition of foreign-country judgment.

94 If the court in a proceeding under Section 6 finds that the foreign-country judgment is entitled to recognition under
95 this chapter then, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, the foreign-
96 country judgment is:

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

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

100 § 4811. Statute of Limitations.

101 An action to recognize a foreign-country judgment must be commenced within the earlier of the time during which
102 the foreign-country judgment is effective in the foreign country or 15 years from the date that the foreign-country judgment
103 became effective in the foreign country.

104 § 4812. Effective date.

105 (a) This chapter takes effect upon enactment.

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

SYNOPSIS

This bill adopts the Uniform Foreign-Country Money Judgments Recognition Act (“UFCMJRA”), promulgated by the Uniform Law Commission in 2005. UFCMJRA is intended to update the Uniform Foreign Money Judgments Recognition Act of 1962 (“1962 Act”), which Delaware had previously adopted. UFCMJRA builds upon the established principles of the 1962 Act in a necessary upgrade for the 21st Century and establishes clear and uniform standards under

which state courts will enforce the foreign-country money judgments that come within its scope.

This bill advances these goals by several means. First, the bill provides simple court procedures for the enforcement of foreign-country money judgments. Second, the bill corrects and clarifies gaps in the 1962 Act revealed in the case law over the last 40 years. Third, the bill addresses burdens of proof for the first time, providing that a petitioner for recognition has the burden of proving a judgment is entitled to recognition under the standards of the bill, and that any respondent resisting recognition and enforcement has the burden of proof respecting denial of recognition. Fourth, the bill revises the grounds for denying recognition of foreign-country money judgments. Fifth, the bill establishes a statute of limitations for recognition actions. Sixth, the bill updates and clarifies both the definitions and the scope section.