January 21, 2010

HOUSE BILL No. 1062

DIGEST OF HB 1062 (Updated January 19, 2010 10:45 am - DI 107)

Citations Affected: IC 34-6; IC 34-54.

Synopsis: Uniform enforcement of foreign judgments act. Enacts the uniform enforcement of foreign judgments act to permit the enforcement of a judgment of another state upon filing the judgment in the office of the clerk of the court.

Effective: July 1, 2010.

Van Haaften

January 5, 2010, read first time and referred to Committee on Judiciary.
January 20, 2010, reported — Do Pass.

C o p y

January 21, 2010

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

C o p y

HOUSE BILL No. 1062

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 34-6-2-48.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 48.3. "Foreign judgment", for purposes of IC 34-54-11, means ~~a~~ **any** judgment, decree or order of:

(1) a court ~~(1)~~ of the United States; **or**

~~(2) of a state other than Indiana; or~~

~~(3)~~ **(2) any other court** that is entitled to the full faith and credit of Indiana.

~~The term does not include a foreign protection order.~~

SECTION 2. IC 34-54-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A ~~certified and exemplified~~ copy of ~~a~~ **any** foreign judgment **authenticated in accordance with 28 U.S.C. 1963 or the statutes of this state** may be filed in the office of the clerk of any court of record in a county in Indiana. ~~where the debtor resides or owns property, and is subject to IC 34-55-9-2.~~

(b) The clerk of the court in which the copy is filed shall treat the

foreign judgment in the same manner as a judgment of an Indiana court.

(c) A foreign judgment filed under subsection (a) has the same effect and is subject to the same procedures, ~~and~~ defenses, **and proceedings for reopening, vacating, or staying** as a judgment entered by an Indiana court.

SECTION 3. IC 34-54-11-2, AS AMENDED BY P.L.238-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) ~~A~~ **At the time of the filing of a foreign judgment, the** judgment creditor filing a foreign judgment under this chapter must file an affidavit with the clerk of the court in which the foreign judgment is filed at the time the foreign judgment is filed. The affidavit must set forth:

(1) the name and last known address of the judgment debtor; and

(2) the name and last known address of the judgment creditor.

(b) ~~The judgment creditor~~ **Promptly after the filing of the foreign judgment and affidavit, the clerk** must send notice of the filing of the foreign judgment ~~in the same process prescribed under Indiana Trial Rule 4 through Indiana Trial Rule 4.17.~~ **to the judgment debtor at the address given and shall make an entry of the mailing in the docket.**

(c) The notice described in subsection (b) must contain:

(1) the name and address of the judgment creditor; **and**

(2) the name and address of the judgment creditor's attorney, if any. ~~and~~

~~(3) the nature and amount of the judgment creditor's claim under the foreign judgment.~~

(d) The judgment creditor may:

(1) mail a notice of the filing of the judgment to the judgment debtor; and

(2) file proof of mailing with the clerk.

(e) Lack of mailing notice by the clerk does not affect the enforcement of proceedings if proof of mailing by the judgment creditor has been filed.

~~(d)~~ **(f)** Execution or other process for the enforcement of a foreign judgment may not be issued earlier than twenty-one (21) days after the entry of the judgment in the judgment's original jurisdiction.

~~(e) Not later than twenty-one (21) days after the date notice is served to the judgment debtor by the judgment creditor or the judgment creditor's attorney, the judgment debtor may file a notice with the court in which the judgment has been filed asserting any defenses that would prohibit the judgment creditor from execution or another process for enforcement of the foreign judgment.~~

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~~(f) If a judgment debtor files a timely notice under subsection (e), a foreign judgment may not:~~

~~(1) constitute a lien under IC 34-55-9-2; or~~

~~(2) be enforced by execution or another process for enforcement of the foreign judgment;~~

~~until the court in which the foreign judgment is filed has issued an order sustaining or overruling each defense asserted in the notice filed under subsection (e).~~

~~(g) A court in which a foreign judgment is filed may issue an order staying the time within which a notice by a judgment debtor must be filed under subsection (e) if the court determines that litigation of a postjudgment motion:~~

~~(1) is appropriate; and~~

~~(2) would be available if the judgment had been obtained in an Indiana court.~~

~~(h) If a court stays under subsection (g) the time within which a notice by a judgment debtor must be filed under subsection (e), a foreign judgment may not:~~

~~(1) constitute a lien under IC 34-55-9-2; or~~

~~(2) be enforced by execution or another process for enforcement of the foreign judgment;~~

~~during the period of the stay.~~

~~(i) A creditor filing a foreign judgment is entitled to any prejudgment remedy that is available to a creditor in an Indiana court during the pendency of:~~

~~(1) the proceeding to determine the availability of a defense under subsection (e); or~~

~~(2) a stay under subsection (g).~~

SECTION 4. IC 34-54-11-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 6. This chapter shall be interpreted and construed to effectuate its general purpose to make uniform the law of those states that enact the uniform enforcement of foreign judgments act.**

SECTION 5. IC 34-54-11-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 7. This chapter may be cited as the "Uniform Enforcement of Foreign Judgments Act".**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1062, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LAWSON L, Chair

Committee Vote: yeas 9, nays 0.

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