HOUSE BILL No. 1548

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-11-2-13; IC 34-54-12.

Synopsis: Recognition of foreign country money judgments. Enacts the uniform foreign country money judgments recognition act. Provides a process for recognizing money judgments obtained in other nations for the purpose of enforcement.

Effective: July 1, 2011.

Foley

January 20, 2011, read first time and referred to Committee on Judiciary.

C o p y

Introduced

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

C o p y

HOUSE BILL No. 1548

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 34-11-2-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 13. An action to recognize a foreign country judgment must be commenced not later than the earlier of the following:**

(1) The time during which the foreign country judgment is effective in the foreign country.

(2) Fifteen (15) years after the date the foreign country judgment became effective in the foreign country.

SECTION 2. IC 34-54-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 12. Uniform Act for the Recognition of Foreign Country Money Judgments

Sec. 1. (a) Except as 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.

Sec. 2. The following definitions apply throughout 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 Indiana 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.

Sec. 3. (a) Except as provided in subsections (b) and (c), a court shall recognize a foreign country judgment to which this chapter applies.

(b) A court 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 is not required to 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

C o p y

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 Indiana 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.

Sec. 4. (a) A foreign country judgment may not be refused recognition for lack of personal jurisdiction if:

(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 arising out of business done by the defendant through that office in the foreign country; or

C o p y

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

(b) The list of bases for personal jurisdiction in subsection (a) is not exclusive. A court may recognize bases of personal jurisdiction other than those listed in subsection (a) as sufficient to support a foreign country judgment.

Sec. 5. (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.

Sec. 6. If the court in a proceeding under section 5 of this chapter 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 Indiana would be conclusive; and

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

Sec. 7. 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 in accordance with the Indiana rules of trial procedure.

Sec. 8. 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.

Sec. 9. 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.

C o p y