

Regular Session, 2010

HOUSE BILL NO. 701

BY REPRESENTATIVE WOOTON

JUDGMENTS: Provides for grounds for recognition of foreign defamation judgments

1 AN ACT

2 To enact Code of Civil Procedure Article 2542, relative to foreign defamation judgments;
3 to provide the grounds for the recognition of foreign defamation judgments; to
4 provide for jurisdiction; to provide for definitions; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Civil Procedure Article 2542 is hereby enacted to read as follows:

7 Art. 2542. Grounds for recognition of foreign defamation judgments

8 A. For the purposes of this Section, "foreign defamation judgment" means
9 a judgment or decree rendered in a jurisdiction outside of any state or territory of the
10 United States which was founded on a cause of action arising from allegations of
11 defamation.

12 B. A foreign defamation judgment is not conclusive if any of the following
13 apply:

14 (1) The judgment was rendered under a system which does not provide
15 impartial tribunals or procedures compatible with the requirements of due process
16 of law.

17 (2) The foreign court did not have personal jurisdiction over the defendant.

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

19 C. A foreign defamation judgment need not be recognized if any of the
20 following apply:

1 (1) The defendant in the proceedings in the foreign court did not receive
2 notice of the proceedings in sufficient time to enable him to provide a defense.

3 (2) The judgment was obtained by fraud.

4 (3) The cause of action or claim for relief on which the judgment is based is
5 repugnant to the public policy of this state.

6 (4) The judgment conflicts with another final and conclusive order.

7 (5) The proceeding in the foreign court was contrary to an agreement
8 between the parties under which the dispute in question was to be settled otherwise
9 than by proceedings in that court.

10 (6) In the case of jurisdiction based only on personal service, the foreign
11 court was an inconvenient forum for the trial of the action.

12 (7) The foreign jurisdiction where judgment was rendered would not give
13 recognition to a similar judgment rendered in this state.

14 (8) The court sitting in this state before which the matter is brought
15 determines that the defamation law applied in the adjudication by the foreign court
16 failed to provide at least as much protection for freedom of speech and press in that
17 case as would be provided by the constitutions of this state and the United States.

18 D. For the purposes of rendering declaratory relief with respect to the
19 liability of a person for a foreign defamation judgment and determining whether the
20 foreign defamation judgment should be deemed recognizable pursuant to this
21 Section, the courts of this state shall have personal jurisdiction over any person who
22 obtains a judgment in a defamation proceeding outside the United States against any
23 of the following persons:

24 (1) A resident of this state.

25 (2) A person or entity amenable to the jurisdiction of this state.

26 (3) A person who has assets in this state.

27 (4) A person who may have to take action in this state to comply with the
28 judgment.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Wooton

HB No. 701

Abstract: Provides the procedures for determining whether a foreign defamation judgment is enforceable in this state.

Present law (R.S. 13:4241-4248) provides for the Enforcement of Foreign Judgments Act, which provides the procedures for the enforcement of foreign judgments entitled to the full faith and credit of this state.

Proposed law defines "foreign defamation judgment" as a judgment or decree rendered in a jurisdiction outside of any state or territory of the U.S. which was founded on a cause of action arising from allegations of defamation.

Proposed law provides that a foreign defamation judgment is not conclusive if: (1) the judgment was rendered under a system which 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.

Proposed law provides that a foreign defamation judgment need not be recognized if: (1) the defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend; (2) the judgment was obtained by fraud; (3) the cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this state; (4) the judgment conflicts with another final and conclusive order; (5) the proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court; (6) in the case of jurisdiction based only on personal service, the foreign court was an inconvenient forum for the trial of the action; (7) the foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this state; or (8) the court sitting in this state before which the matter is brought determines that the defamation law applied in the adjudication by the foreign court failed to provide at least as much protection for freedom of speech and press in that case as would be provided by the constitutions of this state and the U.S.

Proposed law provides that for the purposes of determining whether the foreign defamation judgment should be deemed recognizable, the courts of this state shall have personal jurisdiction over any person who obtains a judgment in a defamation proceeding outside the U.S. against any person who is: (1) a resident of this state; (2) a person or entity amenable to the jurisdiction of this state; (3) a person who has assets in this state; or (4) a person who may have to take action in this state to comply with the judgment.

(Adds C.C.P. Art. 2542)

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Made technical changes, relocating proposed law to the Code of Civil Procedure.
2. Clarified that the courts of this state shall have personal jurisdiction for purposes of proposed law.