

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - PROCEDURE GENERALLY -
FOREIGN JUDGMENTS - UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS
RECOGNITION ACT

Introduced By: Senators Jabour, McCaffrey, and Lynch

Date Introduced: March 10, 2011

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 9-32 of the General Laws entitled "Uniform Enforcement of
2 Foreign Judgments Act" is hereby repealed in its entirety.

3 ~~CHAPTER 9-32~~

4 ~~Uniform Enforcement of Foreign Judgments Act~~

5 ~~**9-32-1. "Foreign judgment" defined.** --- In this chapter, "foreign judgment" means any~~
6 ~~judgment, decree, or order of a court of the United States or of any other court which is entitled to~~
7 ~~full faith and credit in this state.~~

8 ~~**9-32-2. Filing and status of foreign judgments.** --- A copy of any foreign judgment~~
9 ~~authenticated in accordance with the act of congress or the statutes of this state may be filed in the~~
10 ~~office of the clerk of the appropriate superior or district court. The clerk shall treat the foreign~~
11 ~~judgment in the same manner as a judgment of the superior or district court. A judgment so filed~~
12 ~~has the same effect and is subject to the same procedures, defenses, and proceedings for~~
13 ~~reopening, vacating, or staying as a judgment of the court and may be enforced or satisfied in like~~
14 ~~manner to any Rhode Island state court judgment.~~

15 ~~**9-32-3. Notice of filing.** --- (a) At the time of the filing of the foreign judgment, the~~
16 ~~judgment creditor or his or her lawyer shall make and file with the clerk of court an affidavit~~
17 ~~setting forth the name and last known post office address of the judgment debtor and the~~
18 ~~judgment creditor.~~

1 ~~-(b) Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall~~
2 ~~mail notice of the filing of the foreign judgment to the judgment debtor at the address given and~~
3 ~~shall make a note of the mailing in the docket. The notice shall include the name and post office~~
4 ~~address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In~~
5 ~~addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment~~
6 ~~debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk~~
7 ~~shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been~~
8 ~~filed.~~

9 ~~-(c) No execution or other process for enforcement of a foreign judgment filed hereunder~~
10 ~~shall issue until 20 days after the date the judgment is filed.~~

11 ~~**9-32-4. Stay.**—(a) If the judgment debtor shows the court that an appeal from the foreign~~
12 ~~judgment is pending or will be taken, or that a stay of execution has been granted, the court shall~~
13 ~~stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal~~
14 ~~expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has~~
15 ~~furnished the security for the satisfaction of the judgment required by the state in which it was~~
16 ~~rendered.~~

17 ~~-(b) If the judgment debtor shows the court any ground upon which enforcement of a~~
18 ~~judgment of a court of this state would be stayed, the court shall stay enforcement of the foreign~~
19 ~~judgment for an appropriate period, upon requiring the same security for satisfaction of the~~
20 ~~judgment which is required in this state.~~

21 ~~**9-32-5. Fees.**— Any person filing a foreign judgment shall pay to the clerk of court the~~
22 ~~filing fee required by the court. Fees for docketing, transcription, or other enforcement~~
23 ~~proceedings shall be as provided for judgments of the court of this state.~~

24 ~~**9-32-6. Optional procedure.**— The right of a judgment creditor to bring an action to~~
25 ~~enforce his or her judgment instead of proceeding under this chapter remains unimpaired.~~

26 ~~**9-32-7. Uniformity of interpretation.**— This chapter shall be so interpreted and~~
27 ~~construed as to effectuate its general purpose to make uniform the law of those states which enact~~
28 ~~it.~~

29 ~~**9-32-8. Short title.**— This chapter may be cited as the "Uniform Enforcement of Foreign~~
30 ~~Judgments Act".~~

31 SECTION 2. Title 9 of the General Laws entitled "Courts and Civil Procedure/Procedure
32 Generally" is hereby amended by adding thereto the following chapter:

33 CHAPTER 32.2

34 UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT

1 **9-32.2-1. Short title.** – This chapter shall be known and may be cited as the "Uniform
2 Foreign-Country Money Judgments Recognition Act.

3 **9-32.2-2. Definitions.** – As used in this chapter:

4 (1) "Foreign country" means a government other than:

5 (i) The United States;

6 (ii) A state, district, commonwealth, territory, or insular possession of the United States;

7 or

8 (iii) Any other government with regard to which the decision in this state as to whether to
9 recognize a judgment of that government's courts is initially subject to determination under the
10 Full Faith and Credit Clause of the United States Constitution.

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

12 **9-32.2-3. Applicability.** – (a) Except as otherwise provided in subsection (b), this chapter
13 applies to a foreign-country judgment to the extent that the judgment:

14 (1) Grants or denies recovery of a sum of money; and

15 (2) Under the law of the foreign-country where rendered, if final, conclusive, and
16 enforceable.

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

19 (1) A judgment for taxes;

20 (2) A fine or other penalty; or

21 (3) A judgment for divorce, support, or maintenance, or other judgment rendered in
22 connection with domestic relations.

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

25 **9-32.2-4. Standards for recognition of foreign-country judgment.** – (a) Except as
26 otherwise provided in subsections (b) and (c), a court of this state shall recognize a foreign-
27 country judgment to which this chapter applies.

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

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

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

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

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

34 (1) The defendant in the proceeding in the foreign court did not receive notice of the

1 proceeding in sufficient time to enable the defendant to defend;

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

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

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

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

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

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

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

16 (d) A party resisting recognition of a foreign-country judgment has the burden of
17 establishing that a ground for nonrecognition stated in subsection 9-32.2-4(b) or 932.2-4(c)
18 exists.

19 **9-32.2-5. Personal jurisdiction.** – (a) A foreign-country judgment may not be refused
20 recognition for lack of personal jurisdiction if:

21 (1) The defendant was served with process personally in the foreign country;

22 (2) The defendant voluntarily appeared in the proceeding, other than for the purpose of
23 protecting property seized or threatened with seizure in the proceeding or of contesting the
24 jurisdiction of the court over the defendant;

25 (3) The defendant, before the commencement of the proceeding, had agreed to submit to
26 the jurisdiction of the foreign court with respect to the subject matter involved;

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

30 (5) The defendant had a business office in the foreign country and the proceeding in the
31 foreign court involved a cause of action or claim for relief arising out of business done by the
32 defendant through that office in the foreign country; or

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

1 **(b) The list of bases for personal jurisdiction in subsection (a) is not exclusive. The courts**
2 **of this state may recognize bases of personal jurisdiction other than those listed in subsection (a)**
3 **herein as sufficient to support a foreign-country judgment.**

4 **9-32.2-6. Procedure for recognition of foreign-country judgment.** – (a) **If recognition**
5 **of a foreign-country judgment is sought as an original matter, the issue of recognition shall be**
6 **raised by filing an action seeking recognition of the foreign-country judgment.**

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

9 **9-32.2-7. Effect of recognition of foreign-country judgment.** – **If the court in a**
10 **proceeding under section 9-32.2-6 finds that the foreign-country judgment is entitled to**
11 **recognition under this chapter then, to the extent that the foreign-country judgment grants or**
12 **denies recovery of a sum of money, the foreign-country judgment is:**

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

15 **(2) Enforceable in the same manner and to the same extent as a judgment rendered in this**
16 **state.**

17 **9-32.2-8. Stay of proceedings pending appeal of foreign-country judgment.** – **If a**
18 **party establishes that an appeal from a foreign-country judgment is pending or will be taken, the**
19 **court may stay any proceedings with regard to the foreign-country judgment until the appeal is**
20 **concluded, the time for appeal expires, or the appellant has had sufficient time to prosecute the**
21 **appeal and has failed to do so.**

22 **9-32.2-9. Statute of limitations.** – **An action to recognize a foreign-country judgment**
23 **must be commenced within the earlier of the time during which the foreign-country judgment is**
24 **effective in the foreign country or fifteen (15) years from the date that the foreign-country**
25 **judgment became effective in the foreign country.**

26 **9-32.2-10. Uniformity of interpretation.** – **In applying and construing this chapter,**
27 **consideration must be given to the need to promote uniformity of the law with respect to its**
28 **subject matter among states that enact it.**

29 **9-32.2-11. Saving clause.** – **This chapter does not prevent the recognition under**
30 **principles of comity or otherwise of a foreign-country judgment not within the scope of this**
31 **chapter.**

32 **9-32.2-12. Severability.** – **If any provision of this chapter or its application to any person**
33 **or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect**
34 **other provisions or applications of the chapter that can be given effect without the invalid**

1 provision or application, and to this end, the provisions of the chapter are severable.

2 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - PROCEDURE GENERALLY -
FOREIGN JUDGMENTS - UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS
RECOGNITION ACT

1 This act would be a revision of the Uniform Foreign-Money Judgments Recognition Act
2 of 1962. That act codified the most prevalent common laws with regard to the recognition of
3 money judgments rendered in other countries. This act would set out the circumstances in which
4 the courts in states that have adopted the act must recognize foreign-country money judgments.

5 This act would take effect upon passage.

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