

Uniform Foreign-Country Money Judgments Recognition Act

International trade creates litigation between countries and judgments that must be enforced from country to country. There is a strong need for uniformity between states with respect to the law governing foreign country money-judgments. If foreign country judgments are not enforced appropriately and uniformly, it may make enforcement of the judgments of American courts more difficult in foreign country courts.

The first step towards enforcement is recognition of the foreign country judgment. The recognition occurs in a state court when an appropriate action is filed for the purpose. If the judgment meets the statutory standards, the state court will recognize it. It then may be enforced as if it is a judgment of another state of the United States. Enforcement may then proceed, which means the judgment creditor may proceed against the property of the judgment debtor to satisfy the judgment amount. First, it must be shown that the judgment is conclusive, final and enforceable in the country of origin. Certain money judgments are excluded, such as judgments on taxes, fines or criminal-like penalties and judgments relating to domestic relations. Domestic relations judgments are enforced under other statutes, already existing in every state. A foreign-country judgment must not be recognized if it comes from a court system that is not impartial or that dishonors due process, or there is no personal jurisdiction over the defendant or over the subject matter of the litigation. There are a number of grounds that may make a U.S. court deny recognition, i.e., the defendant did not receive notice of the proceeding or the claim is repugnant to American public policy. A final, conclusive judgment enforceable in the country of origin, if it is not excluded for one of the enumerated reasons, must be recognized and enforced.

In 1962, the Uniform Law Commission (ULC) promulgated its Uniform Act Foreign-Country Money Judgments Recognition Act, which codified the most prevalent common law rules with regard to the recognition and enforcement of money judgments rendered in other countries. Under the 1962 Act, a state was required to recognize a foreign-country money judgment if the judgment satisfied the standards for recognition set out in the Act. Since its promulgation more than 40 years ago, the 1962 Act has been adopted in a majority of the states and has been in large part successful in carrying out its purpose of establishing clear and uniform standards under which state courts will enforce the foreign-country money judgments that come within its scope.

New Mexico HB 690 enacts a revised version of the Uniform Foreign Money Judgments Recognition Act of 1962. The revised version, which was first promulgated by the ULC in 2005, generally provides simple court procedures for the enforcement of foreign-country money judgments. It corrects and clarifies gaps in the 1962 Act revealed in the case law over the last 40 years. The revision 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 Act, and that any respondent resisting recognition and enforcement has the burden of proof respecting denial of recognition. It revises the grounds for denying recognition of foreign-country money judgments and establishes a statute of limitations for recognition actions. Finally, the revised Act generally updates and clarifies both the definitions and the scope section of the 1962 edition.

Specifically, the 2005 revised Act makes it clear that a judgment entitled to full faith and credit under the U.S. Constitution is not enforceable under this Act. This clarifies the relationship between the ULC's Foreign-Country Money Judgments Act and the Enforcement of Foreign Judgments Act. Recognition by a court is a different procedure than enforcement of a sister state judgment from within the United States.

The 2005 revision expressly provides that a party seeking recognition of a foreign judgment has the burden to prove that the judgment is subject to the Uniform Act. Burden of proof was not addressed in the 1962 Act.

Conversely, the 2005 Act imposes the burden of proof for establishing a specific ground for non-recognition upon the party raising it. Again, burden of proof is not addressed in the 1962 Act.

The 2005 Act addresses the specific procedure for seeking enforcement. If recognition is sought as an original matter, the party seeking recognition must file an action in the court to obtain recognition. If recognition is sought in a pending action, it may be filed as a counter-claim, cross-claim or affirmative defense in the pending action. The 1962 Act does not address the procedure to obtain recognition at all, leaving that to other state law.

The 2005 Act provides a statute of limitations on enforcement of a foreign-country judgment. If the judgment cannot be enforced any longer in the country of origin, it may not be enforced in a court of an enacting state. If there is no limitation on enforcement in the country of origin, the judgment becomes unenforceable in an enacting state after 15 years from the time the judgment is effective in the country of origin.

Thirteen states had enacted the revised Uniform Foreign-Country Money Judgments Recognition Act as of June 2010: California, Colorado, Hawaii, Idaho, Michigan, Minnesota, Montana, New Mexico, Nevada, North Carolina, Oklahoma, Oregon, and Washington. Interested readers can download the approved text of the Uniform Foreign-Country Money Judgments Recognition Act at www.nccusl.org.

Submitted as:

New Mexico

[HB 690](#)

Status: Enacted into law in 2009.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as the “Uniform Foreign-Country Money
2 Judgments Recognition Act.”

3
4 Section 2. [*Definitions.*] As used in the Uniform Foreign-Country Money Judgments
5 Recognition Act:

6 A. "foreign country" means a government other than:

7 (1) the United States;

8 (2) a state, district, commonwealth, territory or insular possession of the United
9 States; or

10 (3) any other government with regard to which the decision in this state as to
11 whether to recognize the judgments of that government's court is initially subject to
12 determination under the full faith and credit clause of the United States Constitution;

13 B. "foreign-country judgment" means a judgment of a court of a foreign country; and

14 C. "foreign court" means a court of a foreign country.

15
16 Section 3. [*Application.*]

17 A. Except as otherwise provided in Subsection B of this section, the Uniform Foreign-
18 Country Money Judgments Recognition Act applies to a foreign-country judgment to the extent

19 that the foreign-country judgment:
20 (1) grants or denies recovery of a sum of money; and
21 (2) under the law of the foreign country where rendered, is final, conclusive and
22 enforceable.

23 B. The Uniform Foreign-Country Money Judgments Recognition Act does not apply to a
24 foreign-country judgment, even if the foreign-country judgment grants or denies recovery of a
25 sum of money, to the extent that the foreign-country judgment is:

26 (1) a judgment for taxes;
27 (2) a fine or other penalty; or
28 (3) a judgment for divorce, support or maintenance, or other judgment rendered in
29 connection with domestic relations.

30 C. The party seeking recognition of a foreign-country judgment has the burden of
31 establishing that the Uniform Foreign-Country Money Judgments Recognition Act applies to the
32 foreign-country judgment.

33

34 Section 4. [*Standards for Recognition of Foreign-Country Judgment.*]

35 A. Except as otherwise provided in Subsections B and C of this section, a court of this
36 state shall recognize a foreign-country judgment to which the Uniform Foreign-Country Money
37 Judgments Recognition Act applies.

38 B. A court of this state shall not recognize a foreign-country judgment if:

39 (1) the foreign-country judgment was rendered under a judicial system that does
40 not provide impartial tribunals or procedures compatible with the requirements of due process of
41 law;

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

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

44 C. A court of this state need not recognize a foreign-country judgment if:

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

47 (2) the foreign-country judgment was obtained by fraud that deprived the losing
48 party of an adequate opportunity to present its case;

49 (3) the foreign-country judgment or the cause of action on which the foreign-
50 country judgment is based is repugnant to the public policy of this state or of the United States;

51 (4) the foreign-country judgment conflicts with another final and conclusive
52 judgment;

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

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

58 (7) the foreign-country judgment was rendered in circumstances that raise
59 substantial doubt about the integrity of the rendering court with respect to the foreign-country
60 judgment; or

61 (8) the specific proceeding in the foreign court leading to the foreign-country
62 judgment was not compatible with the requirements of due process of law.

63 D. The party resisting recognition of the foreign-country judgment has the burden of
64 establishing that one of the grounds for nonrecognition stated in Subsection B or C of this section
65 exists.

66

67 Section 5. [*Personal Jurisdiction.*]

68 A. A foreign-country judgment shall not be refused recognition for lack of personal
69 jurisdiction if:

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

71 (2) the defendant voluntarily appeared in the proceeding, other than for the
72 purpose of protecting property seized or threatened with seizure in the proceeding or of
73 contesting the jurisdiction of the court over the defendant;

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

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

79 (5) the defendant had a business office in the foreign country and the proceeding
80 in the foreign court involved a cause of action arising out of business done by the defendant
81 through that office in the foreign country; or

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

84 B. The list of bases for personal jurisdiction in Subsection A of this section is not
85 exclusive, and the courts of this state may recognize bases of personal jurisdiction other than
86 those listed in Subsection A of this section as sufficient to support a foreign-country judgment.

87

88 Section 6. [*Procedure for Recognition of Foreign-Country Judgement.*]

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

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

94

95 Section 7. [*Effect of Recognition of Foreign-Country Judgment.*] If the court in a
96 proceeding pursuant to Section 6 of the Uniform Foreign-Country Money Judgments
97 Recognition Act finds that the foreign-country judgment is entitled to recognition under that act,
98 then, to the extent that the foreign-country judgment grants or denies recovery of a sum of
99 money, the foreign-country judgment is:

100 A. conclusive between the parties to the same extent as the judgment of a sister state
101 entitled to full faith and credit in this state would be conclusive; and

102 B. enforceable in the same manner and to the same extent as a judgment rendered in this
103 state.

104

105 Section 8. [*Stay of Proceedings Pending Appeal of Foreign-Country Judgment.*] If a party
106 establishes that an appeal from a foreign-country judgment is pending or will be taken, the court
107 may stay any proceedings with regard to the foreign-country judgment until the appeal is
108 concluded, the time for appeal expires or the party appealing has had sufficient time to prosecute
109 the appeal and has failed to do so.

110

111 Section 9. [*Statute of Limitations.*] An action to recognize a foreign-country judgment
112 shall be commenced within the earlier of the time during which the foreign-country judgment is
113 effective in the foreign country or fifteen years from the date that the foreign-country judgment
114 became effective in the foreign country.

115

116 Section 10. [*Uniformity of Interpretation.*] In applying and construing the Uniform

117 Foreign-Country Money Judgments Recognition Act, consideration shall be given to the need to
118 promote uniformity of the law with respect to its subject matter among states that enact it.

119

120 Section 11. [*Saving Clause.*] The Uniform Foreign-Country Money Judgments
121 Recognition Act does not prevent the recognition under principles of comity or otherwise of a
122 foreign-country judgment not within the scope of that act.

123

124 Section 12. [*Effective Date.*]

125 (A) This [Act] takes effect [insert date.]

126 (B) This [Act] applies to all actions commenced on or after the effective date of this [Act]
127 in which the issue of recognition of a foreign-country judgment is raised.

128

129 Section 13. [*Repeal.*] The following [Acts] are repealed:

130 (A) Uniform Foreign Money-Judgments Recognition Act [of 1962];

131 (B) ...