

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 593

Introduced by Slama, 1.

Read first time January 20, 2021

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to foreign-country money judgments; to adopt
2 the Uniform Foreign-Country Money Judgments Recognition Act and the
3 Uniform Registration of Canadian Money Judgments Act.
4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 12 of this act shall be known and may be
2 cited as the Uniform Foreign-Country Money Judgments Recognition Act.

3 Sec. 2. In the Uniform Foreign-Country Money Judgments Recognition
4 Act:

5 (1) Foreign country means a government other than:

6 (A) the United States;

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

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

13 (2) Foreign-country judgment means a judgment of a court of a
14 foreign country.

15 Sec. 3. (a) Except as otherwise provided in subsection (b) of this
16 section, the Uniform Foreign-Country Money Judgments Recognition Act
17 applies to a foreign-country judgment to the extent that the judgment:

18 (1) grants or denies recovery of a sum of money; and

19 (2) under the law of the foreign country where rendered, is final,
20 conclusive, and enforceable.

21 (b) The Uniform Foreign-Country Money Judgments Recognition Act does
22 not apply to a foreign-country judgment, even if the judgment grants or
23 denies recovery of a sum of money, to the extent that the judgment is:

24 (1) a judgment for taxes;

25 (2) a fine or other penalty; or

26 (3) a judgment for divorce, support, or maintenance, or other
27 judgment rendered in connection with domestic relations.

28 (c) A party seeking recognition of a foreign-country judgment has
29 the burden of establishing that the Uniform Foreign-Country Money
30 Judgments Recognition Act applies to the foreign-country judgment.

31 Sec. 4. (a) Except as otherwise provided in subsections (b) and (c)

1 of this section, a court of this state shall recognize a foreign-country
2 judgment to which the Uniform Foreign-Country Money Judgments Recognition
3 Act applies.

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

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

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

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

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

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

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

20 (3) the judgment or the [cause of action] [claim for relief] on
21 which the judgment is based is repugnant to the public policy of this
22 state or of the United States;

23 (4) the judgment conflicts with another final and conclusive
24 judgment;

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

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

31 (7) the judgment was rendered in circumstances that raise

1 substantial doubt about the integrity of the rendering court with respect
2 to the judgment; or

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

5 (d) A party resisting recognition of a foreign-country judgment has
6 the burden of establishing that a ground for nonrecognition stated in
7 subsection (b) or (c) of this section exists.

8 Sec. 5. (a) A foreign-country judgment may not be refused
9 recognition for lack of personal jurisdiction if:

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

12 (2) the defendant voluntarily appeared in the proceeding, other than
13 for the purpose of protecting property seized or threatened with seizure
14 in the proceeding or of contesting the jurisdiction of the court over the
15 defendant;

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

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

23 (5) the defendant had a business office in the foreign country and
24 the proceeding in the foreign court involved a [cause of action] [claim
25 for relief] arising out of business done by the defendant through that
26 office in the foreign country; or

27 (6) the defendant operated a motor vehicle or airplane in the
28 foreign country and the proceeding involved a [cause of action] [claim
29 for relief] arising out of that operation.

30 (b) The list of bases for personal jurisdiction in subsection (a) of
31 this section is not exclusive. The courts of this state may recognize

1 bases of personal jurisdiction other than those listed in subsection (a)
2 of this section as sufficient to support a foreign-country judgment.

3 Sec. 6. (a) If recognition of a foreign-country judgment is sought
4 as an original matter, the issue of recognition shall be raised by filing
5 an action seeking recognition of the foreign-country judgment.

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

9 Sec. 7. If the court in a proceeding under section 6 of this act
10 finds that the foreign-country judgment is entitled to recognition under
11 the Uniform Foreign-Country Money Judgments Recognition Act then, to the
12 extent that the foreign-country judgment grants or denies recovery of a
13 sum of money, the foreign-country judgment is:

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

17 (2) enforceable in the same manner and to the same extent as a
18 judgment rendered in this state.

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

24 Sec. 9. An action to recognize a foreign-country judgment must be
25 commenced within the earlier of the time during which the foreign-country
26 judgment is effective in the foreign country or fifteen years from the
27 date that the foreign-country judgment became effective in the foreign
28 country.

29 Sec. 10. In applying and construing the Uniform Foreign-Country
30 Money Judgments Recognition Act, consideration must be given to the need
31 to promote uniformity of the law with respect to its subject matter among

1 states that enact it.

2 Sec. 11. The Uniform Foreign-Country Money Judgments Recognition
3 Act does not prevent the recognition under principles of comity or
4 otherwise of a foreign-country judgment not within the scope of the
5 Uniform Foreign-Country Money Judgments Recognition Act.

6 Sec. 12. The Uniform Foreign-Country Money Judgments Recognition
7 Act applies to all actions commenced on or after the effective date of
8 this act in which the issue of recognition of a foreign-country judgment
9 is raised.

10 Sec. 13. Sections 13 to 23 of this act shall be known and may be
11 cited as the Uniform Registration of Canadian Money Judgments Act.

12 Sec. 14. In the Uniform Registration of Canadian Money Judgments
13 Act:

14 (1) Canada means the sovereign nation of Canada and its provinces
15 and territories. Canadian has a corresponding meaning.

16 (2) Canadian judgment means a judgment of a court of Canada, other
17 than a judgment that recognizes the judgment of another foreign country.

18 Sec. 15. (a) The Uniform Registration of Canadian Money Judgments
19 Act applies to a Canadian judgment to the extent the judgment is within
20 the scope of section 3 of this act, if recognition of the judgment is
21 sought to enforce the judgment.

22 (b) A Canadian judgment that grants both recovery of a sum of money
23 and other relief may be registered under the Uniform Registration of
24 Canadian Money Judgments Act, but only to the extent of the grant of
25 recovery of a sum of money.

26 (c) A Canadian judgment regarding subject matter both within and not
27 within the scope of the Uniform Registration of Canadian Money Judgments
28 Act may be registered under the act, but only to the extent the judgment
29 is with regard to subject matter within the scope of the act.

30 Sec. 16. (a) A person seeking recognition of a Canadian judgment
31 described in section 15 of this act to enforce the judgment may register

1 the judgment in the office of the clerk of a court in which an action for
2 recognition of the judgment could be filed under section 6 of this act.

3 (b) A registration under subsection (a) of this section must be
4 executed by the person registering the judgment or the person's attorney
5 and include:

6 (1) a copy of the Canadian judgment authenticated in the same manner
7 as a copy of a foreign judgment is authenticated in an action under
8 section 6 of this act as an accurate copy by the court that entered the
9 judgment;

10 (2) the name and address of the person registering the judgment;

11 (3) if the person registering the judgment is not the person in
12 whose favor the judgment was rendered, a statement describing the
13 interest the person registering the judgment has in the judgment which
14 entitles the person to seek its recognition and enforcement;

15 (4) the name and last-known address of the person against whom the
16 judgment is being registered;

17 (5) if the judgment is of the type described in subsection (b) or
18 (c) of section 15 of this act, a description of the part of the judgment
19 being registered;

20 (6) the amount of the judgment or part of the judgment being
21 registered, identifying:

22 (A) the amount of interest accrued as of the date of registration on
23 the judgment or part of the judgment being registered, the rate of
24 interest, the part of the judgment to which interest applies, and the
25 date when interest began to accrue;

26 (B) costs and expenses included in the judgment or part of the
27 judgment being registered, other than an amount awarded for attorney's
28 fees; and

29 (C) the amount of an award of attorney's fees included in the
30 judgment or part of the judgment being registered;

31 (7) the amount, as of the date of registration, of post-judgment

1 costs, expenses, and attorney's fees claimed by the person registering
2 the judgment or part of the judgment;

3 (8) the amount of the judgment or part of the judgment being
4 registered which has been satisfied as of the date of registration;

5 (9) a statement that:

6 (A) the judgment is final, conclusive, and enforceable under the law
7 of the Canadian jurisdiction in which it was rendered;

8 (B) the judgment or part of the judgment being registered is within
9 the scope of the Uniform Registration of Canadian Money Judgments Act;
10 and

11 (C) if a part of the judgment is being registered, the amounts
12 stated in the registration under subdivisions (6), (7), and (8) of this
13 subsection relate to the part;

14 (10) if the judgment is not in English, a certified translation of
15 the judgment into English; and

16 (11) [a registration fee of \$[XX]] [the registration fee stated in
17 [cite to applicable statute or administrative rule]].

18 (c) On receipt of a registration that includes the documents,
19 information, and registration fee required by subsection (b) of this
20 section, the clerk shall file the registration, assign a docket number,
21 and enter the Canadian judgment in the court's docket.

22 (d) A registration substantially in the following form complies with
23 the registration requirements under subsection (b) of this section if the
24 registration includes the attachments specified in the form:

25 REGISTRATION OF CANADIAN MONEY JUDGMENT

26 Complete and file this form, together with the documents required by
27 Part V of this form, with the Clerk of Court. When stating an amount of
28 money, identify the currency in which the amount is stated.

29 PART I. IDENTIFICATION OF CANADIAN JUDGMENT

30 Canadian Court Rendering the Judgment:

31 Case/Docket Number in Canadian Court:

1 Name of Plaintiff(s):

2 Name of Defendant(s):

3 The Canadian Court entered the judgment on [Date] in
4 [City] in [Province or Territory]. The judgment
5 includes an award for the payment of money in favor of
6 in the amount of

7 If only part of the Canadian judgment is subject to registration
8 (see subsections (b) and (c) of section 15 of this act), describe the
9 part of the judgment being registered:

10 PART II. IDENTIFICATION OF PERSON REGISTERING JUDGMENT AND PERSON
11 AGAINST WHOM JUDGMENT IS BEING REGISTERED

12 Provide the following information for all persons seeking to
13 register the judgment under this registration and all persons against
14 whom the judgment is being registered under this registration.

15 Name of Person(s) Registering Judgment:

16 If a person registering the judgment is not the person in whose
17 favor the judgment was rendered, describe the interest the person
18 registering the judgment has in the judgment which entitles the person to
19 seek its recognition and enforcement:

20 Address of Person(s) Registering Judgment:

21 Additional Contact Information for Person(s) Registering Judgment
22 (Optional):

23 Telephone Number:

24 FAX Number:

25 Email Address:

26 Name of Attorney for Person(s) Registering Judgment, if
27 any:

28 Address:

29 Telephone Number:

30 FAX Number:

31 Email Address:

1 Name of Person(s) Against Whom Judgment is Being
2 Registered:

3 Address of Person(s) Against Whom Judgment is Being
4 Registered: (provide the most recent address
5 known)

6 Additional Contact Information for Person(s) Against Whom Judgment
7 is Being Registered (Optional) (provide most recent information known):

8 Telephone Number:

9 FAX Number:

10 Email Address:

11 PART III. CALCULATION OF AMOUNT FOR WHICH ENFORCEMENT IS SOUGHT

12 Identify the currency or currencies in which each amount is stated.

13 The amount of the Canadian judgment or part of the judgment being
14 registered is

15 The amount of interest accrued as of the date of registration on the
16 part of the judgment being registered is

17 The applicable rate of interest is

18 The date when interest began to accrue
19 is

20 The part of the judgment to which the interest applies
21 is

22 The Canadian Court awarded costs and expenses relating to the part
23 of the judgment being registered in the amount of
24 (exclude any amount included in the award of costs and expenses which
25 represents an award of attorney's fees).

26 The person registering the Canadian judgment claims post-judgment
27 costs and expenses in the amount of and post-judgment
28 attorney's fees in the amount of relating to the part
29 of the judgment being registered (include only costs, expenses, and
30 attorney's fees incurred before registration).

31 The Canadian Court awarded attorney's fees relating to the part of

1 the judgment being registered in the amount of

2 The amount of the part of the judgment being registered which has
3 been satisfied as of the date of registration is

4 The total amount for which enforcement of the part of the judgment
5 being registered is sought is

6 PART IV. STATEMENT OF PERSON REGISTERING JUDGMENT

7 I, [Person Registering Judgment or
8 Attorney for Person Registering Judgment] state:

9 1. The Canadian judgment is final, conclusive, and enforceable under
10 the law of the Canadian jurisdiction in which it was rendered.

11 2. The Canadian judgment or part of the judgment being registered is
12 within the scope of the Uniform Registration of Canadian Money Judgments
13 Act.

14 3. If only a part of the Canadian judgment is being registered, the
15 amounts stated in Part III of this form relate to that part.

16 PART V. ITEMS REQUIRED TO BE INCLUDED WITH REGISTRATION

17 Attached are (check to signify required items are included):

18 A copy of the Canadian judgment authenticated in the same
19 manner a copy of a foreign judgment is authenticated in an action under
20 section 6 of this act as an accurate copy by the Canadian court that
21 entered the judgment.

22 If the Canadian judgment is not in English, a certified
23 translation of the judgment into English.

24 [A registration fee in the amount of \$[XXXX]] [The
25 registration fee stated in [cite to applicable statute or administrative
26 rule]].

27 I declare that the information provided on this form is true and
28 correct to the best of my knowledge and belief.

29 Submitted by:

30 Signature of [Person Registering Judgment]

31 [Attorney for Person Registering Judgment]

1 [specify whether signer is the person registering the judgment or
2 that person's attorney]

3 Date of submission:

4 Sec. 17. (a) Subject to subsection (b) of this section, a Canadian
5 judgment registered under section 16 of this act has the same effect
6 provided in section 7 of this act for a judgment a court determines to be
7 entitled to recognition.

8 (b) A Canadian judgment registered under section 16 of this act may
9 not be enforced by sale or other disposition of property, or by seizure
10 of property or garnishment, until thirty-one days after notice under
11 section 18 of this act of registration is served. The court for cause may
12 provide for a shorter or longer time. This subsection does not preclude
13 use of relief available under law of this state other than the Uniform
14 Registration of Canadian Money Judgments Act to prevent dissipation,
15 disposition, or removal of property.

16 Sec. 18. (a) A person that registers a Canadian judgment under
17 section 16 of this act shall cause notice of registration to be served on
18 the person against whom the judgment has been registered.

19 (b) Notice under this section must be served in the same manner that
20 a summons and complaint must be served in an action seeking recognition
21 under section 6 of this act of a foreign-country money judgment.

22 (c) Notice under this section must include:

23 (1) the date of registration and court in which the judgment was
24 registered;

25 (2) the docket number assigned to the registration;

26 (3) the name and address of:

27 (A) the person registering the judgment; and

28 (B) the person's attorney, if any;

29 (4) a copy of the registration, including the documents required
30 under subsection (b) of section 16 of this act; and

31 (5) a statement that:

1 (A) the person against whom the judgment has been registered, not
2 later than thirty days after the date of service of notice, may motion
3 the court to vacate the registration; and

4 (B) the court for cause may provide for a shorter or longer time.

5 (d) Proof of service of notice under this section must be filed with
6 the clerk of the court.

7 Sec. 19. (a) Not later than thirty days after notice under section
8 18 of this act is served, the person against whom the judgment was
9 registered may motion the court to vacate the registration. The court for
10 cause may provide for a shorter or longer time for filing the motion.

11 (b) A motion under this section may assert only:

12 (1) a ground that could be asserted to deny recognition of the
13 judgment under the Uniform Foreign-Country Money Judgments Recognition
14 Act; or

15 (2) a failure to comply with a requirement of the Uniform
16 Registration of Canadian Money Judgments Act for registration of the
17 judgment.

18 (c) A motion filed under this section does not itself stay
19 enforcement of the registered judgment.

20 (d) If the court grants a motion under this section, the
21 registration is vacated, and any act under the registration to enforce
22 the registered judgment is void.

23 (e) If the court grants a motion under this section on a ground
24 under subdivision (b)(1) of this section, the court also shall render a
25 judgment denying recognition of the Canadian judgment. A judgment
26 rendered under this subsection has the same effect as a judgment denying
27 recognition to a judgment on the same ground under the Uniform Foreign-
28 Country Money Judgments Recognition Act.

29 Sec. 20. A person that files a motion under subsection (a) of
30 section 19 of this act to vacate registration of a Canadian judgment may
31 request the court to stay enforcement of the judgment pending

1 determination of the motion. The court shall grant the stay if the person
2 establishes a likelihood of success on the merits with regard to a ground
3 listed in subsection (b) of section 19 of this act for vacating a
4 registration. The court may require the person to provide security in an
5 amount determined by the court as a condition of granting the stay.

6 Sec. 21. (a) The Uniform Registration of Canadian Money Judgments
7 Act supplements the Uniform Foreign-Country Money Judgments Recognition
8 Act and that act, other than section 6 of this act, applies to a
9 registration under the Uniform Registration of Canadian Money Judgments
10 Act.

11 (b) A person may seek recognition of a Canadian judgment described
12 in section 15 of this act either:

13 (1) by registration under the Uniform Registration of Canadian Money
14 Judgments Act; or

15 (2) under section 6 of this act.

16 (c) Subject to subsection (d) of this section, a person may not seek
17 recognition in this state of the same judgment or part of a judgment
18 described in subsection (b) or (c) of section 15 of this act with regard
19 to the same person under both the Uniform Registration of Canadian Money
20 Judgments Act and section 6 of this act.

21 (d) If the court grants a motion to vacate a registration solely on
22 a ground under subdivision (b)(2) of section 19 of this act, the person
23 seeking registration may:

24 (1) if the defect in the registration can be cured, file a new
25 registration under the Uniform Registration of Canadian Money Judgments
26 Act; or

27 (2) seek recognition of the judgment under section 6 of this act.

28 Sec. 22. In applying and construing the Uniform Registration of
29 Canadian Money Judgments Act, consideration must be given to the need to
30 promote uniformity of the law with respect to its subject matter among
31 states that enact it.

1 Sec. 23. The Uniform Registration of Canadian Money Judgments Act
2 applies to the registration of a Canadian judgment entered in a
3 proceeding that is commenced in Canada on or after the effective date of
4 this act.