

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 991
Committee Substitute Favorable 5/7/93

Short Title: Recognition of Foreign Judgments.

(Public)

Sponsors:

Referred to:

April 19, 1993

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE RECOGNITION AND ENFORCEMENT IN
3 NORTH CAROLINA OF CERTAIN JUDGMENTS RENDERED BY COURTS IN
4 FOREIGN COUNTRIES.

5 The General Assembly of North Carolina enacts:

6 Section 1. Chapter 1C of the General Statutes is amended by adding a new
7 Article to read:

8 **"ARTICLE 18.**
9 **"NORTH CAROLINA FOREIGN MONEY JUDGMENTS RECOGNITION**
10 **ACT.**

11 **"§ 1C-1800. Short title.**

12 This Article may be cited as the North Carolina Foreign Money Judgments
13 Recognition Act.

14 **"§ 1C-1801. Definitions.**

15 As used in this Article:

16 (1) 'Foreign judgment' means any judgment of a foreign state granting or
17 denying recovery of a sum of money, other than a judgment for taxes,
18 a fine or other penalty, or a judgment for support in matrimonial or
19 family matters.

20 (2) 'Foreign state' means any governmental unit other than the United
21 States, any state, district, commonwealth, territory, insular possession
22 thereof, the Panama Canal Zone, the Trust Territory of the Pacific
23 Islands, or the Ryukyu Islands.

1 **"§ 1C-1802. Applicability of Article.**

2 This Article applies to any foreign judgment that is final and conclusive and
3 enforceable where rendered even though an appeal of the judgment is pending or the
4 judgment is subject to appeal.

5 **"§ 1C-1803. Recognition and enforcement.**

6 Except as provided in G.S. 1C-1804, a foreign judgment meeting the requirements
7 of G.S. 1C-1802 is conclusive between the parties to the extent that it grants or denies
8 recovery of a sum of money. The foreign judgment is enforceable in the manner set
9 forth in Article 17 of this Chapter. The defenses available to a judgment debtor under
10 G.S. 1C-1804 may be asserted by the judgment debtor in the manner set forth in G.S.
11 1C-1705.

12 **"§ 1C-1804. Grounds for nonrecognition.**

13 (a) A foreign judgment is not conclusive if:

- 14 (1) The judgment was rendered under a system that does not provide
15 impartial tribunals or procedures compatible with the requirements of
16 due process of law;
17 (2) The foreign court did not have personal jurisdiction over the
18 defendant; or
19 (3) The foreign judgment did not have jurisdiction over the subject matter.

20 (b) A foreign judgment need not be recognized if:

- 21 (1) The defendant in the proceedings in the foreign court did not receive
22 notice of the proceedings in sufficient time to enable the presentation
23 of a defense;
24 (2) The judgment was obtained by fraud;
25 (3) The cause of action on which the judgment is based is repugnant to the
26 public policy of this State;
27 (4) The judgment conflicts with another final and conclusive judgment;
28 (5) The proceedings in the foreign court were contrary to an agreement
29 between the parties under which the dispute in question was to be
30 settled out of court;
31 (6) In the case of jurisdiction based on personal service, the foreign court
32 was a seriously inconvenient forum for the trial of the action; or
33 (7) The foreign court rendering the judgment would not recognize a
34 comparable judgment of this State.

35 **"§ 1C-1805. Basis for personal jurisdiction.**

36 (a) The foreign judgment shall not be refused recognition for lack of personal
37 jurisdiction if:

- 38 (1) The defendant was served personally in the foreign state;
39 (2) The defendant voluntarily appeared in the proceedings, other than for
40 the purpose of protecting property seized or threatened with seizure in
41 the proceeding or of contesting the jurisdiction of the court over the
42 defendant;

- 1 (3) The defendant, prior to the commencement of the proceedings, had
2 agreed to submit to the jurisdiction of the foreign court with respect to
3 the subject matter involved;
- 4 (4) The defendant was domiciled in the foreign state when the proceedings
5 were instituted, or, being a body corporate had its principal place of
6 business, was incorporated, or had otherwise acquired corporate status,
7 in the foreign state;
- 8 (5) The defendant had a business office in the foreign state, and the
9 proceedings in the foreign court involved a cause of action arising out
10 of business done by the defendant through that office in the foreign
11 state; or
- 12 (6) The defendant operated a motor vehicle or airplane in the foreign state
13 and the proceedings involved a cause of action arising out of such
14 operation.

15 (b) The courts of this State may recognize other bases of jurisdiction.

16 **"§ 1C-1806. Stay pending an appeal.**

17 If the defendant satisfies the court either that an appeal is pending or that the
18 defendant is entitled and intends to appeal from the foreign judgment, the court may
19 stay the proceedings until the appeal has been determined or until the expiration of a
20 period of time sufficient to enable the defendant to prosecute the appeal.

21 **"§ 1C-1807. Situations not covered by Article.**

22 This Article does not prevent the recognition of foreign judgment in situations not
23 covered by this Article.

24 **"§ 1C-1808. Uniformity of interpretation.**

25 This Article shall be construed to effectuate its general purpose to make uniform the
26 law of those states that enact it."

27 Sec. 2. This act becomes effective October 1, 1993, and applies to any
28 foreign judgments, as defined in G.S. 1C-1801 as enacted in Section 1 of this act,
29 entered on or after that date.