

ESB 887

THE HOUSE OF REPRESENTATIVES
Wednesday, April 1, 2009

ENGROSSED
Senate Bill No. 887
As Amended

ENGROSSED SENATE BILL NO. 887 - By: ANDERSON of the Senate and CAREY of the House.

(civil procedure - Uniform Foreign-Country Money Judgments Recognition Act - codification – repealer - effective date)

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 718.1 of Title 12, unless there is created a duplication in numbering,
3 reads as follows:

4 This act shall be known and may be cited as the "Uniform Foreign-Country Money
5 Judgments Recognition Act".

6 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 718.2 of Title 12, unless there is created a duplication in numbering,
8 reads as follows:

9 As used in the Uniform Foreign-Country Money Judgments Recognition Act:

10 1. "Foreign country" means a government other than:

11 a. the United States,

- 1 b. a state, district, commonwealth, territory, or insular possession of the
- 2 United States, or
- 3 c. any other government with regard to which the decision in this state
- 4 as to whether to recognize a judgment of the courts of that government
- 5 is initially subject to determination under the Full Faith and Credit
- 6 Clause of the United States Constitution; and

7 2. “Foreign-country judgment” means a judgment of a court of a foreign country.

8 SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma
9 Statutes as Section 718.3 of Title 12, unless there is created a duplication in numbering,
10 reads as follows:

11 A. Except as otherwise provided in subsection B of this section, the Uniform
12 Foreign-Country Money Judgments Recognition Act applies to a foreign-country
13 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, is final, conclusive, and
- 16 enforceable.

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

- 20 1. A judgment for taxes;
- 21 2. A fine or other penalty; or

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 3. A judgment for divorce, support, or maintenance, or other judgment rendered in
2 connection with domestic relations.

3 C. A party seeking recognition of a foreign-country judgment has the burden of
4 establishing that the Uniform Foreign-Country Money Judgments Recognition Act
5 applies to the foreign-country judgment.

6 SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 718.4 of Title 12, unless there is created a duplication in numbering,
8 reads as follows:

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

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

13 1. The judgment was rendered under a judicial system that does not provide
14 impartial tribunals or procedures compatible with the requirements of due process of
15 law;

16 2. The foreign court did not have personal jurisdiction over the defendant; or

17 3. The foreign court did not have jurisdiction over the subject matter.

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

19 1. The defendant in the proceeding in the foreign court did not receive notice of the
20 proceeding in sufficient time to enable the defendant to defend;

21 2. The judgment was obtained by fraud that deprived the losing party of an
22 adequate opportunity to present its case;

1 3. The judgment or the cause of action on which the judgment is based is repugnant
2 to the public policy of this state or of the United States;

3 4. The judgment conflicts with another final and conclusive judgment;

4 5. The proceeding in the foreign court was contrary to an agreement between the
5 parties under which the dispute in question was to be determined otherwise than by
6 proceedings in that foreign court;

7 6. In the case of jurisdiction based only on personal service, the foreign court was a
8 seriously inconvenient forum for the trial of the action;

9 7. The judgment was rendered in circumstances that raise substantial doubt about
10 the integrity of the rendering court with respect to the judgment; or

11 8. The specific proceeding in the foreign court leading to the judgment was not
12 compatible with the requirements of due process of law.

13 D. A party resisting recognition of a foreign-country judgment has the burden of
14 establishing that a ground for nonrecognition stated in subsection B or C of this section
15 exists.

16 SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma
17 Statutes as Section 718.5 of Title 12, unless there is created a duplication in numbering,
18 reads as follows:

19 A. A foreign-country judgment may not be refused recognition for lack of personal
20 jurisdiction if:

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

1 2. The defendant voluntarily appeared in the proceeding, other than for the
2 purpose of protecting property seized or threatened with seizure in the proceeding or of
3 contesting the jurisdiction of the court over the defendant;

4 3. The defendant, before the commencement of the proceeding, had agreed to
5 submit to the jurisdiction of the foreign court with respect to the subject matter involved;

6 4. The defendant was domiciled in the foreign country when the proceeding was
7 instituted or was a corporation or other form of business organization that had its
8 principal place of business in, or was organized under the laws of, the foreign country;

9 5. The defendant had a business office in the foreign country and the proceeding in
10 the foreign court involved a cause of action arising out of business done by the defendant
11 through that office in the foreign country; or

12 6. The defendant operated a motor vehicle or airplane in the foreign country and
13 the proceeding involved a cause of action arising out of that operation.

14 B. The list of bases for personal jurisdiction in subsection A of this section is not
15 exclusive. The courts of this state may recognize bases of personal jurisdiction other
16 than those listed in subsection A of this section as sufficient to support a foreign-country
17 judgment.

18 SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma
19 Statutes as Section 718.6 of Title 12, unless there is created a duplication in numbering,
20 reads as follows:

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

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

6 SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 718.7 of Title 12, unless there is created a duplication in numbering,
8 reads as follows:

9 If the court in a proceeding under Section 6 of this act finds that the foreign-country
10 judgment is entitled to recognition under the Uniform Foreign-Country Money
11 Judgments Recognition Act then, to the extent that the foreign-country judgment grants
12 or 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
14 state 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
16 in this state.

17 SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma
18 Statutes as Section 718.8 of Title 12, unless there is created a duplication in numbering,
19 reads as follows:

20 If a party establishes that an appeal from a foreign-country judgment is pending or
21 will be taken, the court may stay any proceedings with regard to the foreign-country

1 judgment until the appeal is concluded, the time for appeal expires, or the appellant has
2 had sufficient time to prosecute the appeal and has failed to do so.

3 SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma
4 Statutes as Section 718.9 of Title 12, unless there is created a duplication in numbering,
5 reads as follows:

6 An action to recognize a foreign-country judgment must be commenced within the
7 earlier of the time during which the foreign-country judgment is effective in the foreign
8 country or fifteen (15) years from the date that the foreign-country judgment became
9 effective in the foreign country.

10 SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma
11 Statutes as Section 718.10 of Title 12, unless there is created a duplication in numbering,
12 reads as follows:

13 In applying and construing the Uniform Foreign-Country Money Judgments
14 Recognition Act, consideration must be given to the need to promote uniformity of the
15 law with respect to its subject matter among states that enact it.

16 SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma
17 Statutes as Section 718.11 of Title 12, unless there is created a duplication in numbering,
18 reads as follows:

19 The Uniform Foreign-Country Money Judgments Recognition Act does not prevent
20 the recognition under principals of comity or otherwise of a foreign-country judgment not
21 within the scope of the Uniform Foreign-Country Money Judgments Recognition Act.

1 SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 718.12 of Title 12, unless there is created a duplication in numbering,
3 reads as follows:

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

8 SECTION 13. REPEALER 12 O.S. 2001, Sections 710, 711, 712, 713, 714, 715,
9 716, 717, and 718, are hereby repealed.

10 SECTION 14. This act shall become effective November 1, 2009.

11 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03-31-09 - DO PASS,
12 As Amended.