

SB 887

Senate Bill No. 887  
As Amended

SENATE BILL NO. 887 - By: Anderson of the Senate and Carey of the House.

[ civil procedure - Uniform Foreign-Country Money Judgments Recognition Act - codification - effective date ]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

- 1. "Foreign country" means a government other than:
  - a. the United States,
  - b. a state, district, commonwealth, territory, or insular possession of the United States, or

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

6           2.    "Foreign-country judgment" means a judgment of a court of a  
7   foreign country.

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

11          A.    Except as otherwise provided in subsection B of this  
12  section, the Uniform Foreign-Country Money Judgments Recognition Act  
13  applies to a foreign-country judgment to the extent that the  
14  judgment:

15           1.    Grants or denies recovery of a sum of money; and

16           2.    Under the law of the foreign country where rendered, is  
17  final, conclusive, and enforceable.

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

22           1.    A judgment for taxes;

23           2.    A fine or other penalty; or

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

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

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

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

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

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

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

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

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

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

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

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

11 4. The judgment conflicts with another final and conclusive  
12 judgment;

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

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

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

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

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

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

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

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

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

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

21          4. The defendant was domiciled in the foreign country when the  
22 proceeding was instituted or was a corporation or other form of

1 business organization that had its principal place of business in,  
2 or was organized under the laws of, the foreign country;

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

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

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

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

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

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

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

4 If the court in a proceeding under Section 6 of this act finds  
5 that the foreign-country judgment is entitled to recognition under  
6 the Uniform Foreign-Country Money Judgments Recognition Act then, to  
7 the extent that the foreign-country judgment grants or denies  
8 recovery of a sum of money, the foreign-country judgment is:

9 1. Conclusive between the parties to the same extent as the  
10 judgment of a sister state entitled to full faith and credit in this  
11 state would be conclusive; and

12 2. Enforceable in the same manner and to the same extent as a  
13 judgment rendered in this state.

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

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

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

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

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

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

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

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

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

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

8           SECTION 13.           REPEALER           12 O.S. 2001, Sections 710, 711,  
9 712, 713, 714, 715, 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 2-17-09 - DO  
12 PASS, As Amended and Coauthored.