

D R A F T
FOR APPROVAL

**UNIFORM REGISTRATION OF CANADIAN
MONEY JUDGMENTS ACT**

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

MEETING IN ITS ONE-HUNDRED-AND-TWENTY-EIGHTH YEAR
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NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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June 3, 2019

UNIFORM REGISTRATION OF CANADIAN MONEY JUDGMENTS ACT

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1 **UNIFORM REGISTRATION OF CANADIAN MONEY JUDGMENTS ACT**

2 **Prefatory Note**

3 ***I. Introduction.***

4
5 This Act creates for the first time in the United States a registration procedure designed
6 for the recognition and enforcement of a foreign-country money judgment – specifically, a
7 Canadian money judgment that is within the scope of the Uniform Foreign-Country Money
8 Judgments Recognition Act (2005) (UFCMJRA). The Act has two goals: (1) to establish a
9 registration procedure for the recognition and enforcement of Canadian money judgments as a
10 streamlined alternative to the procedure found in Section 6 of the UFCMJRA (which requires
11 that recognition be sought through a judicial proceeding); and (2) to harmonize the procedures
12 for registration in the U.S. states with those in effect in the Canadian provinces and territories to
13 the extent feasible. The Act has been drafted to integrate into the UFCMJRA and relies on the
14 rules of the UFCMJRA with regard to recognition of foreign-country judgments, other than the
15 UFCMJRA requirement that an action be filed. The Act also establishes a registration procedure
16 that is similar, to the extent practicable, to the Canadian registration procedure regarding foreign-
17 country judgments.

18
19 ***II. Background***

20
21 The traditional way in which a foreign judgment (whether from another state or another
22 country) is recognized and enforced in the United States is by commencing a court action in the
23 state in which recognition and enforcement is sought to have the foreign judgment
24 “domesticated,” – that is, to have it turned into a judgment of the recognizing forum so that the
25 judgment can be enforced as a domestic judgment of that forum. The focus of the action for
26 recognition and enforcement is not on the underlying merits of the dispute that led to the original
27 judgment, but rather on the integrity of the foreign judgment itself.

28
29 Requiring a full-scale judicial proceeding for recognition and enforcement of a foreign
30 judgment ensures judicial consideration is given to the integrity of every foreign judgment before
31 the judgment is given effect and enforced in the recognizing jurisdiction. This requirement,
32 however, also adds considerably to the expense and difficulty of collecting on a foreign
33 judgment, as well as adding to the workload of U.S. courts.

34
35 The requirement of a full scale judicial proceeding with regard to a sister-state judgment
36 has been replaced in almost all U.S. jurisdictions by a registration procedure under the Revised
37 Uniform Enforcement of Foreign Judgments Act (1964). A registration procedure also is
38 available in all U.S. jurisdictions for child custody and child support orders (including foreign-
39 country orders) under the Uniform Child Custody Jurisdiction and Enforcement Act (1997) and
40 the Uniform Interstate Family Support Act (2008), respectively. Filing an action on the foreign
41 judgment, however, remains the way in which foreign-country money judgments are recognized
42 and enforced in the U.S. in almost all instances. For example, Section 6 of the UFCMJRA
43 provides that “the issue of recognition shall be raised by filing an action seeking recognition of
44 the foreign-country judgment.”

1 In contrast, statutes in the Canadian provinces and territories long have provided a
2 procedure for registration of a foreign-country judgment. Both the original Canadian statutes
3 addressing recognition and enforcement of foreign-country judgments, the Reciprocal
4 Enforcement of Judgments Acts, and the more modern Uniform Enforcement of Foreign
5 Judgments Act (UEFJA), contain registration procedures. The availability of these registration
6 procedures, however, is quite different under the two Acts. Under the Reciprocal Enforcement
7 of Judgments Acts, registration is available only for foreign-country judgments from a
8 jurisdiction that has been designated a reciprocal jurisdiction by a political official within the
9 particular province or territory, while under the UEFJA, any foreign-country judgment may be
10 recognized and enforced by registration as long as the court rendering the foreign judgment
11 based its authority to hear the case on one of the grounds for personal jurisdiction listed in the
12 UEFJA.

13 14 ***III. Why Provide a Registration Procedure for Canadian Money Judgments?***

15
16 Comment 1 to Section 6 of the UFCMJRA explains the rationale for requiring a judicial
17 proceeding with regard to recognition and enforcement of foreign-country money judgments:

18
19 A registration procedure represents a balance between the interest of the judgment
20 creditor in obtaining quick and efficient recognition and enforcement of a judgment when
21 the judgment debtor has already been provided with an opportunity to litigate the
22 underlying issues, and the interest of the judgment debtor in being provided an adequate
23 opportunity to raise and litigate issues regarding whether the foreign-country judgment
24 should be recognized. In the context of sister-state judgments, this balance favors use of
25 a truncated procedure. ... Courts recognize only a very limited number of grounds for
26 denying full faith and credit to a sister-state judgment. ... The extremely limited grounds
27 for denying full faith and credit ... reflect the fact such judgments will have been
28 rendered by a court that is subject to the same due process limitations and the same
29 overlap of federal statutory and constitutional law as the forum states' courts, and, to a
30 large extent, the same body of court precedent and socio-economic ideas as those shaping
31 the law of the forum state. Therefore, there is a strong presumption of fairness and
32 competence attached to a sister-state judgment that justifies use of a registration
33 procedure.

34
35 The balance between the benefits and costs of a registration procedure is significantly
36 different, however, in the context of recognition and enforcement of foreign-country
37 judgments. Unlike the limited grounds for denying full faith and credit to a sister-state
38 judgment, [the UFCMJRA] provides a number of grounds upon which recognition of a
39 foreign-country judgment may be denied. Determination of whether these grounds apply
40 requires the forum court to look behind the foreign-country judgment to evaluate the law
41 and judicial system under which the foreign-country judgment was rendered. The
42 existence of these grounds for nonrecognition reflects the fact there is less expectation
43 that foreign-country courts will follow procedures comporting with U.S. notions of
44 fundamental fairness and jurisdiction or that those courts will apply laws viewed as
45 substantively tolerable by U.S. standards than there is with regard to sister-state courts.
46 In some situations, there also may be suspicions of corruption or fraud in the foreign-

1 country proceedings. These differences between sister-state judgments and foreign-
2 country judgments provide a justification for requiring judicial involvement in the
3 decision whether to recognize a foreign-country judgment in all cases in which the issue
4 is raised. Although the threshold for establishing a foreign-country judgment is not
5 entitled to recognition ... is high, there is a sufficiently greater likelihood that significant
6 recognition issues will be raised so as to require a judicial proceeding.
7

8 The UFCMJRA applies to foreign-country money judgments coming from a wide range
9 of judicial systems, some of which may reflect very different social, political, and juridical
10 values and legal norms from those in the United States. Given that context, the decision to
11 require judicial involvement in recognition proceedings is justified. In the specific context of a
12 money judgment rendered by a Canadian court, however, the quoted rationale for requiring a
13 judicial proceeding in every instance loses force. The similarities between the U.S. and
14 Canadian legal systems, the shared legal and social values, and the close socio-economic ties
15 between the U.S. and Canada mean that a “strong presumption of fairness and competence”
16 attaches to a Canadian judgment. There is a high expectation that Canadian courts “will follow
17 procedures comporting with U.S. notions of fundamental fairness and jurisdiction” and “will
18 apply laws viewed as substantively tolerable by U.S. standards.” The likelihood that a Canadian
19 money judgment will implicate the defenses to recognition is therefore low, although certainly
20 not non-existent.
21

22 Canada also is one of the United States’ most important trading partners. The Office of
23 the United States Trade Representative reports that Canada currently is the second largest goods
24 trading partner of the United States, with \$617.2 billion in total goods traded during 2018.
25 Canada was the United States’ largest goods export market in that year. Services trade with
26 Canada totaled an estimated \$19.8 billion in 2018. In 2017, the latest year for which data is
27 available, U.S. foreign direct investment in Canada was \$391.2 billion and Canadian direct
28 foreign investment in the United States was \$453.1 billion. According to the Department of
29 Commerce, U.S. exports of goods and services to Canada supported an estimated 1.6 million
30 jobs in 2015, the latest year for which data is available. A registration procedure will facilitate
31 commerce between the two countries by providing an expedited, less expensive, and more
32 efficient procedure for recognition and enforcement of money judgments that are an inevitable
33 by-product of commercial interactions.
34

35 The full judicial proceedings currently required to recognize and enforce every foreign-
36 country money judgment not only increase the costs to the litigants of recognition and
37 enforcement, but also tax the judicial system through increased workload and more crowded
38 dockets. By curtailing the number of cases requiring judicial scrutiny for the recognition and
39 enforcement of a Canadian judgment, a registration procedure will reduce judicial workload and
40 help decongest overburdened dockets.
41

42 When balancing the benefits and costs of a registration procedure in the context of
43 recognition and enforcement of a Canadian money judgment, the above-referenced factors
44 support a different result than that reached under the UFCMJRA in the context of foreign-
45 country money judgments coming from all jurisdictions. Given the strong presumption of
46 fairness and competence that attaches to a Canadian judgment, and the concomitant likelihood

1 that in most instances no reason to deny recognition will exist, the interest of the person against
2 whom recognition and enforcement is sought in having an adequate opportunity to raise any
3 issues with regard to the judgment can adequately be protected by a requirement of personal
4 service of notice of registration, a period during which potentially dispositive enforcement
5 activities are prohibited, and a robust procedure for invoking judicial scrutiny of the judgment
6 after registration. In light of these protections, which are critical components of this Act, the
7 benefits of enhanced efficiency and reduced time and expense in respect of recognition and
8 enforcement inuring to both the judgment holder and the courts warrant the use of a registration
9 procedure with regard to Canadian money judgments.

10
11 Finally, Canada's experience with registration of foreign-country judgments provides a
12 valuable resource in developing a registration procedure for the U.S. states. The Uniform Law
13 Commission of Canada has drafted a modern registration procedure, the UEFJA, which currently
14 is being presented for enactment in Canadian provinces and territories. The similarities in the
15 two countries' legal systems provided an opportunity for the provisions of the registration
16 procedure created by this Act to be harmonized in large part with the provisions of the UEFJA
17 registration procedure. The similarities between the two registration procedures will benefit
18 those registering judgments from the United States in Canada under the UEFJA as well as those
19 registering Canadian judgments under this Act.

20 21 *IV. Summary of the Act.*

22 The registration procedure established by this Act is an expedited procedure that provides
23 an administrative alternative to filing a law suit. Under the Act, a person seeking to enforce a
24 Canadian money judgment of a type that comes within the scope of the UFCMJRA may register
25 the judgment in the office of the Clerk (or other designated administrative official) of a court in
26 which an action to recognize the judgment under the UFCMJRA could be filed. A registration
27 form is included in the Act. Although use of the form is not required, its use creates a safe
28 harbor regarding compliance with the registration requirements.

29
30 Once it has been registered, the judgment has the same force and effect as a foreign-
31 country money judgment that a court has determined is entitled to recognition under the
32 UFCMJRA – it is (1) conclusive between the parties to the same extent as a sister-state judgment
33 entitled to full faith and credit and (2) enforceable in the same manner and to the same extent as
34 a judgment rendered in the recognizing state. Certain types of enforcement activity in respect of
35 the registered judgment, namely those that have the potential to result in significant harm to the
36 person against whom the judgment was registered, however, are prohibited for a 30-day period,
37 which period may be shorten or lengthen for cause.

38
39 The person registering the judgment must serve notice of the registration on the person
40 against whom the judgment was registered in the same manner as a summons and complaint
41 would be served if an action were filed under the UFCMJRA. The 30-day period during which
42 certain enforcement acts are prohibited is measured from the date on which notice is served. The
43 person against whom the Canadian money judgment is registered may file a petition with the
44 court to vacate the registration no later than 30 days after being served with notice of the
45 registration. The petition may assert (1) any ground upon which recognition of a foreign-country

1 judgment could be denied under the UFCMJRA or (2) a failure to comply with the registration
2 requirements under the Act. The court may, for cause, shorten or lengthen the period for filing
3 the petition.
4

5 If a petition is filed, the question of whether the Canadian judgment will be recognized
6 and enforced is determined by the court. The petitioner may request a stay of all enforcement
7 activity pending the court's decision, which will be granted if the petitioner establishes a
8 likelihood of success on the merits regarding one of the grounds for vacating the petition. The
9 court has discretion to require security in connection with the stay.
10

11 If the court grants the petition, the judgment is vacated and any enforcement acts taken
12 under the registration are void. If the ground on which the court grants the petition is one upon
13 which recognition of the judgment would be denied under the UFCMJRA, the court also will
14 render a judgment denying recognition to the Canadian judgment. The court's judgment denying
15 recognition has the same effect as if recognition had been denied in a court proceeding filed
16 under the UFCMJRA.
17

18 If the person against whom the judgment is registered does not file a motion to vacate the
19 registration within the 30 day period (or shorter or longer period granted by the court), then the
20 person registering the judgment obtains recognition of, and the ability to enforce, the Canadian
21 judgment simply by registering the judgment, thus avoiding the costs and collection delay
22 associated with a court action for recognition and enforcement.
23

1 **UNIFORM REGISTRATION OF CANADIAN MONEY**
2 **JUDGMENTS ACT**

3
4 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Uniform Registration of
5 Canadian Money Judgments Act.

6 **Comment**

7 This Act establishes a registration procedure for recognition and enforcement of Canadian
8 money judgments as an alternative to the procedure found in Section 6 of the Uniform Foreign-
9 Country Money Judgments Recognition Act (UFCMJRA), which requires that recognition be
10 sought through a judicial proceeding. The Act is drafted to supplement and integrate into the
11 UFCMJRA and relies on the rules of the UFCMJRA with regard to recognition of foreign-
12 country money judgments, other than the UFCMJRA requirement that an action be filed. The
13 Act also establishes a registration procedure that is similar, to the extent practicable, to the
14 Canadian registration procedure regarding foreign-country judgments contained in the Canadian
15 Uniform Enforcement of Foreign Judgments Act (UEFJA).

16
17 **SECTION 2. DEFINITIONS.** In this [act]:

18 (1) “Canada” means the sovereign nation of Canada and its provinces and territories.

19 “Canadian” has a corresponding meaning.

20 (2) “Canadian judgment” means a judgment of a court of Canada, other than a judgment
21 that recognizes the judgment of another foreign country.

22 **Comment**

23
24 1. These definitions are analogs to the definitions of “Foreign country” and “Foreign-country
25 judgment” in the UFCMJRA.

26
27 2. The Canadian UEFJA does not apply to foreign judgments “that recognize the judgment of
28 another foreign State.” Canadian UEFJA §3(d). Because this Act is drafted to harmonize with
29 the Canadian UEFJA, a judgment that recognizes the judgment of another foreign country is
30 excluded from the definition of “Canadian judgment” in subsection (2).

31
32 **SECTION 3. APPLICABILITY.**

33 (a) This [act] applies to a Canadian judgment to the extent the judgment is within the
34 scope of [cite to Section 3 of the Uniform Foreign-Country Money Judgments Recognition Act],
35 if recognition of the judgment is sought to enforce the judgment.

1 (b) A Canadian judgment that grants both recovery of a sum of money and other relief
2 may be registered under this [act], but only to the extent of the grant of a sum of money.

3 (c) A Canadian judgment regarding subject matter both within and not within the scope
4 of this [act] may be registered under this [act], but only to the extent the judgment relates to
5 subject matter within the scope of this [act].

6 **Comment**

7
8 1. Under subsection (a), this Act applies to a Canadian money judgment to the extent the
9 judgment comes within the scope of the UFCMJRA. Section 3 of the UFCMJRA provides that
10 the UFCMJRA applies to a foreign-country judgment to the extent the judgment (1) grants or
11 denies recovery of a sum of money; and is (2) final, conclusive and enforceable under the law of
12 the rendering jurisdiction. UFCMJRA Section 3 excludes (1) a judgment for taxes; (2) a fine or
13 other penalty; and (3) a judgment for divorce, support, or maintenance, or other judgment in
14 connection with domestic relations. These requirements and exclusions are incorporated into
15 this Act.

16
17 2. Harmonization with the Canadian UEFJA is only partial with regard to the kind of judgments
18 that are included in the Act. The Canadian UEFJA is not limited to money judgments; it applies
19 more broadly to a final order or judgment in a civil proceeding. The policy decision was made,
20 however, to limit the scope of this Act to judgments that are within the scope of both the
21 UFCMJRA and the Canadian UEFJA. Because the scope of the UFCMJRA is narrower than
22 that of the Canadian UEFJA, the scope of this Act is limited to the scope of the UFCMJRA.

23
24 3. The Canadian UEFJA contains exclusions for (1) recovery of taxes; (2) maintenance or
25 support; and (3) recovery of monetary fines or penalties that are sufficiently similar to those in
26 Section 3 of the UFCMJRA as to not affect harmonization. The Canadian UEFJA also contains
27 three exclusions not found in the UFCMJRA-- foreign judgments: (1) "arising out of bankruptcy
28 and insolvency proceedings"; (2) "that recognize the judgment of another foreign State;" and (3)
29 that were "rendered in proceedings commenced before the coming into force of [the Canadian
30 UEFJA]". There is no need to address the bankruptcy exclusion in this Act because U.S.
31 bankruptcy law requires that the type of judgment covered by this exclusion – a foreign money
32 judgment against a debtor in bankruptcy or its estate – be filed in the bankruptcy proceedings
33 rather than under the UFCMJRA. The exclusion for a judgment recognizing the judgment of
34 another foreign State is dealt with in this Act by excluding that type of judgment from the
35 definition of "Canadian judgment" in Section 2(2). The third exclusion is addressed in Section
36 11 of this Act, which provides that the Act applies only to proceedings commenced on or after
37 the effective date of the Act.

38
39 4. In addition to limiting the type of judgments to which this Act applies to those within the
40 scope of the UFCMJRA, Section 3(a) provides that the Act applies only "if recognition of the
41 judgment is sought to enforce the judgment." This latter limit, which is not found in the

1 UFCMJRA, is intended to exclude from the Act situations in which recognition is sought solely
2 for the purpose of obtaining the preclusive effect of the Canadian money judgment. This issue is
3 discussed further in Comments 1 and 2 to Section 4.
4

5 5. Subsections (b) and (c) deal with “mixed judgments” – judgments that are partially within and
6 partially outside of the scope of the Act. The UFCMJRA deals with this issue by providing in
7 UFCMJRA Section 3 that the UFCMJRA applies to mixed judgments “*to the extent*” they are
8 within its scope. This section also uses the “to the extent” formulation in order to track the scope
9 of the UFCMJRA. In addition, subsections (b) and (c) make it clear that a mixed judgment may
10 be registered to the extent that it involves the type of relief and subject matter that is within the
11 scope of the UFCMJRA and thus within the scope of this Act.
12

13 6. A Canadian judgment could contain elements that are within the scope of this Act, and others
14 that are not, in two ways. First, the judgment could combine a monetary award (which would be
15 within the Act’s scope) with a non-monetary award, such as an injunction (which would not be
16 within its scope). *See* UFCMJRA Section 3(a). Second, the judgment could relate to both a
17 subject matter within the scope of the Act and one that is excluded. *See* UFCMJRA Section
18 3(b). Subsection (b) addresses the first situation, providing that a judgment that grants both
19 monetary and non-monetary relief may be registered, but only to the extent of the grant of
20 monetary relief. Subsection (c) addresses the second situation, providing that a judgment
21 rendered with regard to both a subject matter within the scope of the Act and one that is outside
22 its scope may be registered, but only to the extent the judgment relates to the subject matter
23 within the scope of this Act.
24

25 **SECTION 4. REGISTRATION OF CANADIAN JUDGMENT.**

26 (a) A person seeking recognition of a Canadian judgment to enforce the judgment may
27 register the judgment in the office of the [clerk] of a court in which an action for recognition of
28 the judgment could be filed under [cite to Section 6 of the Uniform Foreign-Country Money
29 Judgments Recognition Act].

30 (b) A registration under subsection (a) must be executed by the person registering the
31 judgment or the person’s attorney and include:

32 (1) a copy of the Canadian judgment authenticated as accurate by the court that
33 entered the judgment;

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

35 (3) if the person registering the judgment is not the person in whose favor the

1 judgment was rendered, a statement describing the interest in the judgment of the person
2 registering the judgment that entitles the person to seek its recognition and enforcement;

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

5 (5) if the judgment is of the type described in Section 3(b) or (c), a description of
6 the part of the judgment being registered;

7 (6) the amount of the judgment or part of the judgment being registered,
8 identifying:

9 (A) the amount of interest accrued as of the date of registration on the
10 judgment or part of the judgment being registered, including the rate of interest, the part of the
11 judgment to which interest applies, and the date when interest began;

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

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

16 (7) the amount of post-judgment costs, expenses, and attorney's fees as of the date
17 of registration claimed by the person registering the judgment or part of the judgment;

18 (8) the amount of the judgment or part of the judgment being registered that has
19 been satisfied as of the date of registration;

20 (9) a statement that:

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

23 (B) the judgment or part of the judgment being registered is within the

1 scope of this [act]; and

2 (C) if a part of the judgment is being registered, the amounts stated in the
3 registration as required by subsections (6), (7) and (8) relate to the part;

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

6 (11) [a registration fee of \$[____]] [the registration fee stated in [cite to applicable
7 statute or administrative rule]].

8 (c) On receipt of a registration that includes the documents, information, and registration
9 fee required by subsection (b), the [clerk] shall file the registration, assign a [registration] docket
10 number, and enter the Canadian judgment in the court's [registration] docket.

11 (d) A registration substantially in the following form, which includes the attachments
12 specified in the form, complies with the requirements under subsection (b) for registration.

13 **REGISTRATION OF CANADIAN MONEY JUDGMENT**

14 **This completed form, together with the documents required by Subpart V, should be filed**
15 **with the [Clerk] of Court. When stating a sum of money, identify the currency in which**
16 **the sum is stated.**

17 **I. Identification of Canadian Judgment**

18 Canadian Court Rendering the Judgment: _____

19 Case/Docket Number in Canadian Court: _____

20 Name of Plaintiff: _____

21 Name of Defendant: _____

22 The Canadian Court entered the judgment on _____ [Date] in _____ [City]

23 in _____ [Province or Territory]. The judgment includes an

1 award for the payment of money in favor of _____ in the amount
2 of _____.

3 If only part of the Canadian judgment is subject to registration (see [cite to Section 3(b) and (c)
4 of the Registration of Canadian Money Judgments Act]), describe the part of the judgment being
5 registered. _____.

6 **II. Identification of Person Registering Judgment and Person Against Whom Judgment is**
7 **Being Registered**

8 Name of Person Registering Judgment: _____. If the person
9 registering the judgment is not the person in whose favor the judgment was rendered, describe
10 the interest in the judgment of the person registering the judgment that entitles the person to seek
11 its recognition and enforcement. _____

12 Address: _____

13 Additional Contact Information for Person Registering Judgment (optional):

14 Telephone Number: _____ FAX Number: _____

15 Email Address: _____

16 Name of Attorney for Person Registering Judgment, if any: _____

17 Address: _____

18 Telephone Number: _____ FAX Number: _____

19 Email Address: _____

20 Name of Person Against Whom Judgment is Being Registered: _____

21 Address: _____ (provide the most recent address known)

22 Additional Contact Information for Person Against Whom Judgment is Being Registered
23 (optional) (provide most recent information known):

1 Telephone Number: _____ FAX Number: _____

2 Email Address: _____

3 **III. Calculation of Amount for Which Enforcement is Sought**

4 The amount of the Canadian judgment or part of the judgment being registered is
5 _____.

6 The amount of interest accrued as of the date of registration on the part of the judgment being
7 registered is _____. The applicable rate of interest is _____. The
8 date when interest began is _____. The part of the judgment to which the
9 interest applies is _____.

10 The Canadian Court awarded costs and expenses relating to the part of the judgment being
11 registered in the amount of _____ (exclude any amount included in the award of costs
12 and expenses that represents an award of attorney's fees).

13 The Canadian Court awarded attorney's fees relating to the part of the judgment being registered
14 in the amount of _____.

15 The person registering the Canadian judgment claims post-judgment costs and expenses of
16 _____ and post-judgment attorney's fees of _____ relating to the part
17 of the judgment being registered (include only costs, expenses, and attorney's fees incurred
18 before registration).

19 The amount of the part of the judgment being registered that has been satisfied as of the date of
20 registration is _____.

21 The total amount for which enforcement of the part of the judgment being registered is sought is
22 _____.

1 **IV. Statement of Person Registering Judgment**

2 I, _____ [Person Registering Judgment or Attorney for Person
3 Registering Judgment] state:

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

6 2. The Canadian judgment or part of the Canadian judgment being registered is within the scope
7 of the [cite to the Registration of Canadian Money Judgments Act].

8 3. If only a part of the Canadian judgment is being registered, the amounts stated in Part III of
9 the registration relate to that part.

10 **V. Items Required to be Included with Registration**

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

12 _____ A copy of the Canadian judgment authenticated as accurate by the Canadian court that
13 entered the judgment in accordance with [cite to state’s rules regarding authentication of a
14 foreign judgment].

15 _____ If the Canadian judgment is not in English, a certified translation of the judgment into
16 English.

17 _____ A registration fee in the amount of \$[].

18 I declare that the information provided on this form is true and correct, except as to
19 matters stated to be on information and belief and, as to those matters, I believe them to be true.

20 Submitted by: _____
21 Person Registering Judgment or
22 Attorney for Person Registering Judgment
23 (specify whether signer is the person
24 registering the judgment or that person’s
25 attorney)
26

27 Date of submission: _____

1 **Legislative Note:** The term “clerk” is bracketed in this section to signify that the state should
2 specify the appropriate term for the court officer in the state.

3
4 Subsection (b)(11) provides alternative bracketed language regarding the registration fee. A
5 state that combines fees in a centralized statute should reference that statute as indicated by the
6 second set of brackets. If a state establishes fees by administrative rule, the reference should be
7 to the administrative rule. Other states should set the fee in this act by opting for the first set of
8 brackets.

9
10 The term “registration” is bracketed in subsection (c) to signify that the state should select the
11 appropriate term in the state for the docket in which the registration will be filed.

12
13 In Part V of the registration form, the state should provide the amount of the registration fee in
14 the bracketed location.

15 16 **Comment**

17 1. Section 3(a) states the scope of this Act in terms of both the *type* of judgment (this Act applies
18 to a judgment to the extent the judgment is a type of judgment to which the UFCMJRA applies)
19 and in terms of the *purpose* for which recognition is sought (recognition must be sought in order
20 to enforce the judgment). Accordingly, subsection (a) provides that a person may register a
21 Canadian judgment if recognition is sought in order to enforce the judgment – that is, if the
22 person registering the judgment is doing so in order to use available procedures in the state to
23 collect the amount of the judgment from the assets of a person who is obligated to pay the
24 judgment. The registration procedure thus is not available when recognition of a Canadian
25 judgment is sought solely to establish its preclusive effect with regard to the determination of the
26 dispute (or issues in the dispute) by the rendering court. In most instances, the issue of
27 recognition of a foreign judgment solely to establish its preclusive effect will be raised in the
28 course of an already-initiated court proceeding, and, therefore, is best dealt with under the
29 procedures of Section 6 of the UFCMJRA.

30
31 2. The term “enforce” as used in subsection (a) includes any means provided by the law of this
32 state by which a person may seek to collect the judgment from the assets of the person obligated
33 on the judgment. Enforcement does not necessarily require an affirmative act on the part of the
34 person seeking to collect. For example, in some states, a judgment creates a lien against the
35 judgment debtor’s real estate without any action by the judgment creditor. A person registering a
36 Canadian judgment for the purpose of obtaining this automatic lien would meet the requirement
37 of subsection (a). Subsection (a) also does not affect any of the rules with regard to enforcement
38 of judgments under the law of this state, including the time in which a judgment creditor may
39 enforce a judgment. The requirement that the registration be for the purpose of enforcement
40 does not mean that enforcement must be the sole reason for registration. Indeed, under Section
41 5, one of the consequences of registration is that the judgment is conclusive between the parties.
42 It is only when recognition is sought *solely* to obtain preclusive effect that registration is not
43 available. The person against whom the judgment has been registered has the burden of
44 establishing that the judgment was not registered for the purpose of enforcement. *See* Section 7.

1 3. Subsection (b)(1) is based on Canadian UEFJA Section 12(4)(a), which provides that the
2 appropriate certification is that of the court of origin. The word “authenticated”, rather than
3 “certified”, is used to avoid any implication that a particular procedure is required. The
4 procedure contemplated is that normally required in this state for the authentication of foreign-
5 country judgments.

6
7 4. Subsection (b)(2) requires basic information identifying the person registering the Canadian
8 judgment – that is, the person in whose favor the judgment was rendered or a successor in
9 interest to that person. If the person registering the judgment is not the original party in whose
10 favor the judgment was rendered, subsection (b)(3) requires the person registering the judgment
11 to explain why it is entitled to have the judgment recognized and enforced.

12
13 5. Subsection (b)(4) requires basic information about the person against whom the judgment is
14 being registered. The most up-to-date information available to the person registering the
15 judgment is required.

16
17 6. Subsection (b)(5) addresses the issue of mixed judgments. If the Canadian judgment is only
18 partially within the scope of the Act, the part of the judgment within the Act may be registered,
19 *see* Section 3, but the person registering the judgment must provide a description of that part.

20
21 7. Subsection (b)(6) requires information about the amount of the judgment for which
22 registration is sought, including the amount of accrued interest, costs and expenses and
23 attorney’s fees. The primary purpose of this information is allow the person against whom the
24 judgment is registered to determine how the amount of the judgment for which registration is
25 sought was determined and the components that make up that amount. If only part of the
26 judgment is being registered, the person registering the judgment is required to allocate the
27 appropriate amounts to the part being registered.

28
29 8. Subsection (b)(7) requires information about the amount of post-judgment costs, expenses,
30 and attorney’s fees included in the amount for which enforcement of the judgment is sought. The
31 amounts included are “as of the date of registration,” which would include any amount up to the
32 time of filing the registration. Unlike the amounts included under subsection (b)(6), post-
33 judgment amounts claimed are not likely to have been approved by a court. As with regard to
34 other amounts stated in the registration, however, the burden is on the person against whom the
35 judgment is being registered to object to these amounts, if the person believes they are not
36 accurate.

37
38 9. Subsection (b)(8) requires the person registering the judgment to state the amount of the
39 judgment that has been satisfied as of the filing of the registration. The total of the amounts
40 stated in subsections (b)(6) and (7) less the amount stated in (b)(8) should equal the amount for
41 which enforcement is sought. If only a part of the judgment is subject to being registered, then
42 the amount satisfied will be the amount satisfied with regard to the part of the judgment being
43 registered.

44
45 10. Subsection (b)(9) requires the person seeking registration to provide a statement that the
46 judgment to be registered is of a type to which the UFCMJRA (and thus this Act) applies. Under

1 UFCMJRA Section 3(c), the party seeking recognition has the burden to establish that the
2 UFCMJRA applies to the foreign-country judgment. *Cf.* The Hague Convention on Choice of
3 Court Agreements of 30 June 2005, Art. 13 1. d) (requiring person seeking recognition of a
4 judgment to produce “any documents necessary to establish that the judgment has effect or,
5 where applicable, is enforceable in the State of origin”). The same is true under this Act. *See*
6 Section 9(a) (except for UFCMJRA Section 6, UFCMJRA rules apply to registration under this
7 Act). If only a portion of the judgment is within the scope of the UFCMJRA (and thus subject to
8 registration under this Act), subsection (b)(9)(C) requires the person registering the judgment to
9 affirm that the amounts stated in the registration pursuant to subsections (b)(6), (7) and (8) relate
10 to the part being registered.

11
12 11. Subsection (b)(10) requires a certified translation of the judgment into English, if the original
13 judgment is not in English. What constitutes an acceptable certification is left to other law of the
14 state.

15 .
16 12. Subsection (b)(11) requires payment of a registration fee to the Clerk of Court. It is based on
17 Section 5 of the ULC Revised Uniform Enforcement of Foreign Judgments Act (1964) (dealing
18 with registration of sister-state judgments). Payment of this registration fee is a requirement for
19 issuance of a docket number and entry in the docket by the Clerk of Court under subsection (c).
20

21 13. In addition to payment of the registration fee, subsection (c) makes receipt of a registration
22 that includes all the documents and information listed in subsection (b) a requirement for the
23 Clerk of Court to register the judgment, issue a docket number (required under Section 6 to give
24 notice to the person against whom registration of the judgment is sought) and enter the
25 registration in the Court’s registration docket.
26

27 14. Subsection (b) requires that the registration be executed by the person registering the
28 judgment or that person’s attorney. The word “executed” was chosen rather than the word
29 “authenticated” or “signed” in order to avoid any connotation as to whether the requirement can
30 be satisfied by an electronic signature. Whether the court will accept the registration of a
31 Canadian judgment as an electronic filing is left to other law of the state.
32

33 15. Section 4 does not require that the information necessary for registration be provided in any
34 particular form. Subsection (d), however, provides a standard form for registration of a Canadian
35 money judgment under this Act. Use of the form is voluntary; however, its use does provide a
36 safe harbor. Under subsection (d), a registration substantially as provided by the form and
37 including the attachments specified in the form meets the requirements for registration under
38 subsection (b). The form requests certain information that is not required by subsection (b), but
39 which is practical and helpful. This information is marked as “optional” on the form. Failure to
40 provide this optional information does not affect the determination of whether a submission is
41 substantially as provided by the form.
42

43 **SECTION 5. EFFECT OF REGISTRATION.**

44 (a) Subject to subsection (b), a Canadian judgment registered under Section 4 has the

1 same effect provided in [cite to Section 7 of the Uniform Foreign-Country Money Judgments
2 Recognition Act] for a judgment determined by a court to be entitled to recognition.

3 (b) A Canadian judgment registered under Section 4 may not be enforced by sale or other
4 disposition of property, or by seizure of property or [garnishment] [trustee process], until 31
5 [calendar] days after service under Section 6 of notice of registration. The court for cause may
6 provide for a shorter or longer time. This subsection does not preclude use of relief available
7 under law of this state other than this [act] to prevent dissipation, disposition, or removal of
8 property.

9 **Legislative Note:** *The state should select between the bracketed terms “garnishment” and*
10 *“trustee process” depending upon how this enforcement action is described in the state. If the*
11 *state uses another term to describe this type of enforcement action, then the state should place*
12 *that term in the text instead of either “garnishment” or “trustee process”.*

13
14 *“Days” in this section means calendar days. If other law of the state specifying how days are*
15 *counted would alter that result, the state should include the word “calendar” as shown by the*
16 *bracket in subsection (b).*

17 **Comment**

18
19
20 1. The effect of registration under this Act is that the judgment is considered recognized, subject
21 to a period during which certain means of enforcing the judgment are prohibited in order to
22 provide the person against whom the judgment has been registered an opportunity to raise any
23 defenses that would cause the registration to be vacated. Subsection (a) states the basic rule that
24 a registered judgment is given the same effect as a judgment that has been determined by a court
25 to be entitled to recognition under Section 7 of the UFCMJRA. Thus, once registered, (and
26 subject to the period provided in subsection (b)), a Canadian judgment is (1) conclusive between
27 the parties to the same extent as the judgment of a sister-state entitled to full faith and credit and
28 (2) enforceable in the same manner and to the same extent as a judgment rendered in the
29 recognizing state. *See* UFCMJRA §7. Section 14 of the Canadian UEFJA contains similar
30 provisions, providing that, “[o]n registration, a foreign judgment is enforceable as if it were a
31 judgment of the enforcing court,” and the enforcing court “has the same jurisdiction and control
32 over a registered foreign judgment as it has over its own judgments and may order enforcement
33 in respect of one or more of its parts.”

34
35 2. Subsection (b) provides that the person registering the judgment may not enforce the judgment
36 by sale or other disposition of property or by seizure or garnishment of property until 31 days
37 after service of notice of the registration on the person against whom the judgment is registered.
38 The intent of this subsection is to provide a period during which a person against whom a

1 judgment has been registered can take action to have the registration vacated before being
2 subject to enforcement acts that could be dispositive with regard to the person’s property.
3 Section 14(3) of the Canadian UEFJA contains an analogous provision, which states that a
4 registered judgment “may not be enforced by the sale or other disposition of any property of the
5 judgment debtor before the expiry of 30 days after the judgment debtor has received notice of the
6 proceedings to register the foreign judgment, or any longer period that the enforcing court may
7 allow.” Harmonization on this issue is not complete, as subsection (b) prohibits enforcement
8 acts that are short of final disposition of the property, but nevertheless may cause irreversible
9 harm to the person against whom the judgment is registered.

10
11 3. Subsection (b) is a crucial provision in establishing an appropriate balance between protecting
12 the person against whom the judgment is registered, who may have a valid defense to recognition
13 of the judgment, and permitting the person registering the judgment to effectively and efficiently
14 enforce its judgment, including avoiding dissipation of assets. Subsection (b) strikes this balance
15 by, first, providing that until 31 days after service of notice of registration, the person registering
16 the judgment may not enforce the registered judgment through disposition, seizure or
17 garnishment of the property of the person against whom the judgment is registered. As discussed
18 above, this prohibition on enforcement actions is broader than that in the Canadian UEFJA,
19 Section 14(3), which only prohibits enforcement through sale or other disposition of the
20 property. Expansion of the protection afforded the person against whom the judgment is
21 registered was warranted because actions short of disposition, such as garnishment of bank
22 accounts, could cause potentially irreversible harm. Subsection (b), however, also provides
23 several protections of the interests of the person registering the judgment. The prohibition on
24 enforcement actions does not prevent all actions related to enforcement, but only those
25 specifically listed. Thus, for example, it does not prohibit discovery seeking information about
26 property that may be available to satisfy the judgment. Nor does it prohibit enforcement activity
27 short of seizure or garnishment, such as placing a lien on the property of the person against
28 whom the judgment is registered. The person registering the judgment, therefore, is not
29 prohibited from establishing its priority to the assets during the 30-day period vis a vis other
30 creditors of the person against whom the judgment is registered. Subsection (b) also provides
31 that the court may shorten the 30-day period (as well as lengthen it) for cause. (Section 14(3) of
32 the Canadian UEFJA only allows the court to lengthen the period.) Finally, subsection (b) does
33 not preclude use of other laws of the state that provide relief against dissipation, disposition or
34 removal of assets potentially available to satisfy the judgment.

35
36 4. Subsection (b) provides that the 30-day period during which certain enforcement acts are
37 prohibited may be shortened or lengthened by the court for cause. Given the varied factual
38 circumstances that will justify altering the period, establishing a specific standard is
39 impracticable. Instead, the standard is left to judicial development. The “for cause” language is
40 intended as a signal to the court that, although the decision to alter the time period is within its
41 discretion, there should be a significant reason for altering the time period. It should not be
42 altered as a matter of course, but only when there are circumstances that justify the lengthening
43 or shortening. This is particularly the case as the 30-day time period in this section normally
44 should coordinate with the 30-day period in Section 7 (a) during which the person against whom
45 the judgment is registered may file a petition to vacate the registration.

1 **SECTION 6. NOTICE OF REGISTRATION.**

2 (a) A person that registers a Canadian judgment under Section 4 shall cause notice of
3 registration to be served on the person against whom the judgment has been registered.

4 (b) Notice under this section must be served in the same manner that a summons and
5 [complaint] must be served in an action under [cite to Section 6 of the Uniform Foreign-Country
6 Money Judgments Recognition Act] seeking recognition of a foreign-country money judgment.

7 (c) Notice under this section must include:

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

9 (2) the [registration] docket number assigned to the registration;

10 (3) the name and address of:

11 (A) the person registering the judgment; and

12 (B) the person’s attorney, if any;

13 (4) a copy of the registration, including the documents required under Section
14 4(b); and

15 (5) a statement that

16 (A) the person against whom the judgment has been registered has 30
17 [calendar] days after the date of service of notice in which to [petition] the court to vacate the
18 registration; and

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

20 (d) Proof of service of notice under this section must be filed with the [clerk] of the court.

21 **Legislative Note:** *The term “complaint” is bracketed in subsection (b) to signify that the state*
22 *should select the appropriate term used in the state to describe the initial pleading filed to*
23 *commence a civil action.*

24
25 *The term “registration” is bracketed in subsection (c)(2) to signify that the state should select*
26 *the appropriate term in the state for the docket in which the registration is filed.*

1 “Days” in this section means calendar days. If other law of the state specifying how days are
2 counted would alter that result, the state should include the word “calendar” as shown by the
3 bracket in subsection (c)(5)(A).
4

5 The term “petition” is bracketed in subsection (c)(5)(A) to signify that the state should select the
6 appropriate term used in the state for a pleading requesting relief from a judgment.
7

8 The term “clerk” is bracketed in subsection (d) to signify that the state should select the
9 appropriate term for the court officer in the state.
10

11 **Comment**

12
13 1. Subsection (a) requires that notice of the registration be served on the person against whom
14 the judgment has been registered. Section 12(4)(b) of the Canadian UEFJA contains an
15 analogous requirement.
16

17 2. The time of service of notice is a crucial measuring point under this Act. Both the 30-day
18 non-enforcement period in Section 5(b) and the 30-day period in Section 7 (a) during which a
19 person against whom a judgment is registered may file a petition to vacate the registration are
20 measured from the time of service of notice. Prompt and adequate service of notice thus is
21 critical to the ability of the person registering the judgment to enforce the registered judgment.
22

23 3. Registering a Canadian judgment is an alternative to the commencement of a law suit for its
24 recognition. Nevertheless, some of the rules that apply to commencement of a law suit also apply
25 in the registration context. Subsection (b) provides that the manner in which notice is to be given
26 is the same as that provided by the rules governing service of summons and complaint in an
27 action for recognition of a foreign-country judgment. Cf. Reciprocal Enforcement of Judgments
28 Act of the Province of Alberta, §6(1)(a) (notice of registration to be served “in the same manner
29 as a statement of claim is required to be served”). The subsection (b) reference to other law for
30 the specific methodology by which notice is given includes not only the rules governing the
31 method of service, but also those concerning other service-related issues, such as the timing of
32 service and the time by which proof of service must be filed with the clerk of court.
33

34 4. The requirement under subsection (b) that notice of registration be served in the same manner
35 as a summons and complaint normally will result in personal service of the registration notice,
36 and is an important protection for the person against whom the judgment is registered. The
37 requirement also harmonizes the Act with Canadian law on this issue. Registration under both
38 the Reciprocal Enforcement of Judgments Acts and the Canadian UEFJA requires personal
39 service. The rationales for requiring personal service in Canada are that (1) registration is the
40 commencement of a new process rather than a corollary to an existing one in the enforcing
41 jurisdiction, (2) because the person against whom the judgment is registered can object to
42 registration and enforcement, that person should receive personal notice of the intended action,
43 and (3) personal service is the best way to establish when the timelines in the registration process
44 commence. The rationales for the Canadian personal service requirement and the desire to
45 maintain parity between the Canadian and U.S. registration procedures to the extent practicable,
46 provide additional reasons for the personal service requirement in subsection (b).

1 5. Subsection (c) lists the information that must be included in the notice of registration,
2 including information regarding the registration and the person registering the judgment.
3 Subsection (c)(4) requires that a copy of the registration, including a copy of the documents
4 required to be filed with the registration under Section 4(b), must be included with the notice.
5 Subsection (c)(5) requires that a statement be included in the notice informing the person against
6 whom the judgment has been registered that the person has 30 days after service in which to
7 petition the court to vacate the registration, subject to the court's ability to alter that time period
8 for cause.

9
10 6. Subsection (d) requires that proof of service of the notice of registration be filed with the clerk
11 of court. The time by which the proof of service must be filed is one of the issues left to the
12 rules governing service of a summons and complaint under subsection (b). *See* comment 2.

13 14 **SECTION 7. [PETITION] TO VACATE REGISTRATION.**

15 (a) Not later than 30 [calendar] days after notice under Section 6 is served, the person
16 against whom the judgment was registered may [petition] the court to vacate the registration. The
17 court for cause may provide for a shorter or longer time.

18 (b) A [petition] under this section may assert only:

19 (1) a ground that could be asserted to deny recognition of the judgment under [cite
20 to the Uniform Foreign-Country Money Judgments Recognition Act]; or

21 (2) a failure to comply with the requirements of this [act] for registration of the
22 judgment.

23 (c) A [petition] under this section does not itself stay enforcement of the registered
24 judgment.

25 (d) If the court grants a [petition] under this section, the registration is vacated, and any
26 act under the registration to enforce the registered judgment is void.

27 (e) If the court grants a [petition] under this section on a ground under subsection (b)(1),
28 the court also shall render a [judgment] denying recognition of the Canadian judgment. A
29 [judgment] rendered under this subsection has the same effect as a [judgment] denying
30 recognition to a judgment on the same ground under the [cite to the Uniform Foreign-Country

1 Money Judgments Recognition Act].

2 **Legislative Note:** *The term “petition” is bracketed in the title and text of this section to signify*
3 *that the state should select the appropriate term used in the state for a pleading requesting relief*
4 *from a judgment.*

5
6 *The term “judgment” is bracketed in subsection (e) to signify that the state should select the*
7 *appropriate term used in the state to describe a final court determination with regard to the*
8 *merits of a case.*

9
10 *“Days” in subsection (a) means calendar days. If other law of the state specifying how days are*
11 *counted would alter that result, the state should include the word “calendar” as shown by the*
12 *bracket in subsection (a).*

13
14 **Comment**

15
16 1. A primary consequence of a registration process for recognition of Canadian judgments is that
17 it shifts the burden of invoking judicial scrutiny of the foreign judgment from the person seeking
18 recognition of the judgment to the person seeking to avoid recognition. This section provides the
19 procedure by which the person seeking to avoid recognition can invoke that judicial scrutiny. It
20 provides that the person seeking to avoid recognition through registration may file a petition with
21 the court within 30 days after service of notice of registration, stating its objections to
22 recognition of the judgment by registration. The effect of filing a petition to vacate the
23 registration is to invoke the judicial process for ultimate determination of whether the Canadian
24 judgment will be registered, and, if the basis for vacating the registration is that the judgment is
25 not entitled to recognition on a ground found in the UFCMJRA, for determination of whether the
26 judgment is entitled to be recognized in accordance with the UFCMJRA as well. See subsection
27 (e) and comment 8 below. Once a petition to vacate the registration is filed, the case will move
28 forward as a matter to be determined by the court.

29
30 2. Subsection (a) requires that a petition to vacate the registration be filed with the court no later
31 than 30 days after the person against whom the judgment is registered is served with notice under
32 Section 6. The court may shorten or lengthen the filing period for cause. Given the varied
33 factual circumstances that will justify altering the period, establishing a specific standard is
34 impracticable. Instead, the standard is left to judicial development. The “for cause” language is
35 intended as a signal to the court that, although the decision to alter the time period is within its
36 discretion, there should be a significant reason for altering the time period. It should not be
37 altered as a matter of course, but only when there are circumstances that justify the lengthening
38 or shortening. This is particularly the case as the 30-day time period in this section normally
39 should coordinate with the 30-day period in Section 5(b) during which certain enforcement
40 actions against the property of the person against whom the judgment is registered are
41 prohibited.

42
43 3. Subsection (b) divides the grounds upon which a registration may be vacated into two
44 categories. Under subsection (b)(1), a judgment debtor may assert as a basis for vacating the
45 registration any ground that could be asserted to deny recognition to the Canadian judgment

1 under the UFCMJRA. Given the “plug in” relationship of this Act to the UFCMJRA, subsection
2 (b)(1) references the grounds for refusing recognition under the UFCMJRA rather than restating
3 them. The defenses to recognition of a foreign-country judgment under the UFCMJRA are
4 contained in UFCMJRA Section 4. Under this section, those defenses also are available to vacate
5 registration of the judgment. In addition to the UFCMJRA Section 4 defenses to recognition
6 (which provide the only substantive grounds for denying recognition), there are other grounds for
7 denying recognition under the UFCMJRA, and those grounds also are available to the person
8 against whom the Canadian judgment has been registered under subsection (b)(1). For example,
9 another ground for denying recognition to a judgment under the UFCMJRA is that the judgment
10 is not one to which the UFCMJRA applies under UFCMJRA Section 3. Section 3 of this Act
11 provides that this Act applies to a Canadian judgment to the extent the judgment is within the
12 scope of the UFCMJRA; therefore, if a judgment does not come within the scope of UFCMJRA
13 Section 3, it also cannot be registered under this Act. (Canadian judgments not within the scope
14 of the UFCMJRA, and thus not within the scope of this Act, of course, still can be recognized by
15 a court under principles of comity or other applicable law. *See* UFCMJRA Section 11.) A third
16 ground for denying recognition to a judgment under the UFCMJRA is that the action is barred by
17 the statute of limitations found in UFCMJRA Section 9. This ground also would be available
18 under this section as a basis to vacate registration of the judgment. As these examples illustrate,
19 the intent of subsection (b)(1) is to allow the person against whom registration is sought to raise
20 as a ground for vacating the registration any ground that would be available in this state as a
21 basis for denying recognition to the judgment under the UFCMJRA.

22
23 4. Subsection (b)(2) provides that a judgment debtor also may seek to have the registration
24 vacated based on the failure of the person registering the judgment to comply with the
25 requirements for registration under this Act. *See* Sections 4 and 6. While the subsection (b)(1)
26 grounds for setting aside the registration relate to whether the Canadian judgment should be
27 recognized at all (at least under the UFCMJRA), the subsection (b)(2) grounds for vacating the
28 registration relate only to whether the person registering the judgment properly followed the
29 registration process. For example, Section 4(a) requires that the person seeking recognition of a
30 Canadian judgment through registration must do so for the purpose of enforcing the judgment. If
31 recognition is sought solely for the preclusive effect of the judgment, then the registration
32 procedure cannot be used. The judgment still may be entitled to recognition; the registration
33 procedure simply is not the proper procedure by which to obtain that recognition. *See* Section
34 9(d)(2).

35
36 5. U.S. courts consistently have held that a person opposing recognition may not seek to re-
37 litigate the merits of the underlying case that lead to the judgment for which recognition is
38 sought. Similarly, a person seeking to vacate registration of a Canadian judgment may not seek
39 to relitigate the merits of the underlying case as a basis for vacating the registration.

40
41 6. Subsection (c) states that filing a petition to vacate the registration does not automatically stay
42 enforcement of the registered judgment. Instead, in order to stay all enforcement activities until
43 the petition to vacate the registration is determined (including those listed in Section 5(b) beyond
44 the 30-day period), the person against whom the judgment was registered must request a stay of
45 enforcement from the court under Section 8.

46

1 7. Subsection (d) states the effect of a court determination that the registration should be vacated
2 – the registration is vacated, and any acts that have been taken under the registration to collect
3 the judgment are void.

4
5 8. Subsection (e) provides that, if a registration is vacated on the basis that the Canadian
6 judgment is not entitled to recognition on a ground upon which recognition would be denied
7 under the UFCMJRA, then, in addition to vacating the registration, the court shall issue a
8 judgment denying recognition to the Canadian judgment. As discussed in comment 3 above, the
9 subsection (b)(1) grounds for vacating a registration are the same as the grounds for denying
10 recognition to a Canadian judgment under the UFCMJRA. Therefore, if the court finds that one
11 of those grounds exists, the result is not only that the registration is vacated, but also that
12 recognition of the Canadian judgment is denied. Subsection (e) further provides that a judgment
13 denying recognition on a subsection (b)(1) ground has the same effect as a judgment denying
14 recognition on the same ground under the UFCMJRA.

15
16 9. This section is based in part on Section 6 of the Reciprocal Enforcement of Judgments Act of
17 the Province of Alberta.

18
19 **SECTION 8. STAY OF ENFORCEMENT PROCEEDINGS.** A person that files a
20 [petition] under Section 7(a) to vacate registration of a Canadian judgment may request the court
21 to stay enforcement of the judgment pending determination of the [petition]. The court shall
22 grant the stay if the court determines that the person has established a likelihood of success on
23 the merits with regard to a ground under Section 7(b) for vacating a registration. The court may
24 require the person to provide security in an amount determined by the court.

25 *Legislative Note:* The term “petition” is bracketed in this section to signify that the state should
26 select the appropriate term used in the state for a pleading requesting relief from a judgment.

27
28
29 **Comment**

30 1. Under Section 7(c), filing a petition to vacate a registration does not of itself stay enforcement
31 of the judgment. Instead, the person filing the petition may request a stay of enforcement
32 pending determination of the petition under this section.

33
34 2. The standard to grant a stay pending determination of a petition to vacate a registration is a
35 showing by the person requesting the stay of a likelihood of success on the merits with regard to
36 one of the grounds for vacating a registration listed in Section 7(b). The grounds stated in Section
37 7(b) are the only grounds upon which a registration may be vacated; therefore, a showing of a
38 likelihood of success with regard to one of those grounds provides the appropriate standard for
39 staying enforcement activities pending the determination of a petition to vacate a registration. If

1 the person requesting the stay meets the standard, then the court shall grant the stay.

2
3 3. In an appropriate circumstance, the court may require security pending determination of the
4 petition. Whether to require security and the amount of any security required are within the
5 discretion of the court.

6
7 **SECTION 9. RELATIONSHIP TO UNIFORM FOREIGN-COUNTRY MONEY**
8 **JUDGMENTS RECOGNITION ACT.**

9 (a) This [act] supplements [cite to the Uniform Foreign-Country Money Judgments
10 Recognition Act] and that [act], other than [cite to Section 6 of the Uniform Foreign-Country
11 Money Judgments Recognition Act], applies to a registration under this [act].

12 (b) A person may seek recognition of a Canadian judgment either:

13 (1) by registration under this [act]; or

14 (2) as provided under [cite to Section 6 of the Uniform Foreign-Country Money
15 Judgments Recognition Act].

16 (c) Subject to subsection (d), a person may not seek recognition in this state of the same
17 judgment or part of a judgment described in Section 3(b) or (c) with regard to the same person
18 under both this [act] and [cite to Section 6 of the Uniform Foreign-Country Money Judgments
19 Recognition Act].

20 (d) If the court grants a [petition] to vacate a registration solely on a ground under Section
21 7(b)(2) the person seeking registration may:

22 (1) if the defect in the registration is one that can be cured, file a new registration
23 under this [act]; or

24 (2) seek recognition of the judgment under [cite to Section 6 of the Uniform
25 Foreign-Country Money Judgments Recognition Act].

26 **Legislative Note:** The term “petition” is bracketed in subsection (d) to signify that the state
27 should select the appropriate term used in the state for a pleading requesting relief from a

1 judgment.

2
3 **Comment**
4

5 1. Subsection (a) states the relationship between this Act and the UFCMJRA. The conceptual
6 approach in drafting this Act is to create a “module” that will “plug in” to the provisions of the
7 UFCMJRA. This approach means that the provisions contained in the UFCMJRA need not be
8 restated in this Act, as those provisions will apply equally to this Act. The only exception to this
9 rule is Section 6 of the UFCMJRA. Unlike Section 6 of the UFCMJRA, this Act does not require
10 that the person seeking recognition of a Canadian judgment file a court action. Therefore,
11 Section 6 of the UFCMJRA does not apply to this Act. In providing for application of the rules
12 of the UFCMJRA, the intent of this section is that all of those rules (other than Section 6) will
13 apply, including not only substantive rules, but also other provisions, such as those dealing with
14 allocation of burdens of proof and limitation of actions.
15

16 2. This Act is intended to provide an alternative procedure to the filing of an action under
17 UFCMJRA Section 6 with regard to Canadian judgments. It does not prevent a person seeking
18 recognition of a Canadian judgment from choosing to file an action seeking recognition as
19 provided in UFCMJRA Section 6 rather than using this Act. The import of subsection (b) is that
20 a person may seek recognition of a Canadian judgment either by registering it under this Act or
21 by commencing a court action under Section 6 of the UFCMJRA. *Cf.* Revised Uniform
22 Enforcement of Foreign Judgments Act (1964), Section 6 (dealing with registration of sister-state
23 judgments) (“[t]he right of a judgment creditor to bring an action to enforce his judgment instead
24 of proceeding under this Act remains unimpaired.”).
25

26 3. Subsection (c) states the corollary to subsection (b) – a person must choose between the two
27 means of seeking recognition of a Canadian judgment; both procedures may not be pursued at
28 the same time against the same person with regard to the same judgment, or, in the case of a
29 mixed judgment, the same portion of a judgment, in the same jurisdiction. To provide otherwise
30 would lead to inefficiency and waste of judicial resources. Subsection (c), however, does not
31 prevent a person from pursuing different procedures within this state for recognition of a
32 judgment with regard to different persons obligated on the judgment. Subsection (c) also does
33 not prevent the use of different procedures (registration or filing an action for recognition) in
34 different states with regard to the same judgment or part of a judgment.
35

36 4. Subsection (c) is subject to the limited exception found in subsection (d). Under subsection
37 (d), when a registration is vacated solely because of a failure to comply with a requirement for
38 registration under this Act (*see* Section 7(b)(2)), the person whose registration was vacated is not
39 precluded from further efforts to obtain recognition of the judgment. Instead, subsection (d)
40 gives the person whose registration was vacated a choice -- it may either file a new registration
41 (assuming the defect in the previous registration is one that can be cured) or file an action under
42 Section 6 of the UFCMJRA seeking recognition of the Canadian judgment.
43

44 5. Section 3 of this Act provides that the Act applies to a Canadian judgment that is within the
45 scope of the UFCMJRA, if registration is sought for the purpose of enforcement. Thus, the
46 registration procedure under this Act is available with regard to any Canadian judgment that

1 could be considered for recognition through an action filed under the UFCMJRA, if the
2 requirements for registration (including the requirement that recognition of the judgment through
3 registration is being sought for the purpose of enforcing the judgment) are met. The corollary is
4 that judgments not within the scope of the UFCMRA are not within the scope of this Act. Those
5 judgments continue to be recognized and enforced as they have been prior to this Act. Section 11
6 of the UFCMJRA states with regard to judgments not within its scope (and thus not within the
7 scope of this Act) that they may be recognized “under principles of comity or otherwise.”
8

9 **SECTION 10. UNIFORMITY OF APPLICATION AND INTERPRETATION.** In

10 applying and construing this uniform act, consideration must be given to the need to promote
11 uniformity of the law with respect to its subject matter among states that enact it.

12 **SECTION 11. TRANSITIONAL PROVISION.** This [act] applies to the registration

13 of a Canadian judgment entered in a proceeding commenced in Canada on or after [the effective
14 date of this [act]].

15 **Comment**

16
17 The Canadian UEFJA does not apply to foreign judgments “rendered in proceedings commenced
18 before the coming into force of [the] Act.” Canadian UEFJA §3(f). This section places a
19 comparable limitation on this Act.
20

21 **SECTION 12. EFFECTIVE DATE.** This [act] takes effect