

D R A F T  
FOR DISCUSSION ONLY

**UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS  
RECOGNITION ACT (200\_)**

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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March 2005 Meeting Draft

*With Prefatory and Reporter's Notes*

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ON UNIFORM STATE LAWS

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## **UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT (200\_)**

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# UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT (200\_)

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# **UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT (200\_)**

## **PREFATORY NOTE**

The National Conference of Commissioners on Uniform State Laws promulgated the current Uniform Foreign Money-Judgments Recognition Act in 1962. The Act codified the most prevalent common law rules with regard to the recognition of money judgments rendered in other countries. The hope was that codification by a state of its rules on the recognition of foreign country money judgments, by satisfying reciprocity concerns of foreign courts, would make it more likely that money judgments rendered in that state would be recognized in other countries. Towards this end, the Act sets out the circumstances in which the courts in states that have adopted the Act must recognize foreign country money judgments. It delineates a minimum of foreign country judgments that must be recognized by the courts of adopting states, leaving those courts free to give recognition to other foreign country judgments not covered by the Act under principles of comity or otherwise. The Act, however, does not establish a procedure for either recognition or enforcement of foreign country money judgments; it merely sets out the standards under which those judgments will be recognized.

In June 2003, a Study Committee appointed by NCCUSL to review the current Act issued a Study Committee Report regarding possible amendment of the Act. That Report found that the Act had in large part been successful in carrying out its purpose of establishing clear standards under which state courts will enforce foreign country money judgments. The Report also concluded, however, that there had been a sufficient number of interpretative issues raised by the current Act to warrant a revision of the Act limited to clarification of those issues. The current Drafting Committee was appointed in January 2004. Its charge is “to draft amendments to the Uniform Foreign Money-Judgments Recognition Act, with the scope of the project limited to those issues necessary to correct problems created by the current Act and its interpretation by the courts.”

The goal of this revision, therefore, is not to change the basic rules or approach of the current Act, but rather to clarify its application in situations in which issues have arisen. Among the more significant issues identified by the Study Report which are addressed in this Revised Act are (1) the need to update and clarify the definitions section; (2) the need to reorganize and clarify the scope provisions, and to allocate the burden of proof with regard to establishing application of the Act; (3) the need to provide a specific procedure by which recognition of a foreign country money judgment under the Act must be sought; (4) the need to clarify and, to a limited extent, expand upon the grounds for denying recognition in light of differing interpretations of those provisions in the current case law; (5) the need to expressly allocate the burden of proof with regard to the grounds for denying recognition; (6) the need to establish a statute of limitations for certain recognition actions; and (7) the need to revisit the issue of whether a reciprocity requirement should be included in the Act in light of nonuniform state enactments that have included such a requirement.

1 **UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT (200\_)**

2 **SECTION 1. SHORT TITLE.** This [act] may be cited as the [Recognition Act of  
3 200\_].

4 **Reporter’s Notes**

5  
6 This section is an updated version of Section 9 of the current Act. It has been moved  
7 from Section 11 of the October 2004 Draft to Section 1 of this Draft in accordance with current  
8 Conference practice.

9  
10 [As discussed at the October meeting, the Drafting Committee needs to decide upon a  
11 short title for the Act. The Reporter’s suggestion is in brackets in the text.]  
12

13 **SECTION 2. DEFINITIONS.** As used in this [act]:

14 (a) “Foreign country” means any governmental unit other than

15 (i) the United States;

16 (ii) a state, district, commonwealth, territory or insular possession of the  
17 United States; or

18 (iii) any other governmental unit with regard to which the decision in this  
19 state as to whether to recognize the judgments of that governmental unit’s courts is initially  
20 subject to determination under the Full Faith and Credit Clause of the United States Constitution.

21 (b) “Foreign-country judgment” means a judgment of a court of a foreign country.

22 **Reporter’s Notes**

23  
24 The defined terms “foreign state” and “foreign judgment” in the current Act have been  
25 changed to “foreign country” and “foreign-country judgment” in order to make it clear that the  
26 Act does not apply to recognition of sister-state judgments. Some courts have noted that the  
27 “foreign state” and “foreign judgment” definitions have caused confusion as to whether the Act  
28 should apply to sister-state judgments because “foreign state” and “foreign judgment” are terms  
29 of art generally used in connection with recognition and enforcement of sister-state judgments.  
30 *See, e.g., Eagle Leasing v. Amandus, 476 N.W.2d 35 (S.Ct. Iowa 1991) (reversing lower court’s*

1 application of UFMJRA to a sister-state judgment, but noting lower court’s confusion was  
2 understandable as “foreign judgment” is term of art normally applied to sister-state judgments).  
3 *See also*, Uniform Enforcement of Foreign Judgments Act §1 (defining “foreign judgment” as the  
4 judgment of a sister state or federal court). Several states (for example, New York) have  
5 nonuniform amendments to the Act that change the defined terms to “foreign country” and  
6 “foreign country judgment.”  
7

8 The current Act defines a “foreign state” as “any governmental unit other than the United  
9 States, or any state, district, commonwealth, territory, insular possession thereof, or the Panama  
10 Canal Zone, the Trust Territory of the Pacific Islands, or the Ryuku Islands.” This definition  
11 obviously needs to be updated. The Committee decided at its October, 2004 drafting committee  
12 meeting that, rather than simply updating the list in the current Act’s definition of “foreign state,”  
13 the new definition of “foreign country” should combine the “listing” approach of the current  
14 Act’s “foreign state” definition with a provision that defines “foreign country” in terms of  
15 whether the judgments of the particular governmental unit’s courts are initially subject to the Full  
16 Faith and Credit Clause standards for determining whether those judgments will be recognized.  
17 Under this new definition, a governmental unit is a “foreign country” if it is (1) not the United  
18 States or a state, district, commonwealth, territory or insular possession of the United States; and  
19 (2) its judgments are not initially subject to Full Faith and Credit Clause standards.  
20

21 The Full Faith and Credit Clause, Art. IV, section 1, provides that “Full Faith and Credit  
22 shall be given in each State to the public Acts, Records, and judicial Proceedings of every other  
23 State. And the Congress may by general Laws prescribe the Manner in which such Acts,  
24 Records, and Proceedings shall be proved, and the Effect thereof.” Whether the judgments of a  
25 governmental unit are subject to the Full Faith and Credit Clause may be determined by judicial  
26 interpretation of the Full Faith and Credit Clause or by statute, or by a combination of these two  
27 sources. For example, pursuant to the authority granted by the second sentence of the Full Faith  
28 and Credit Clause, Congress has passed 28 U.S.C.A. §1738, which provides *inter alia* that court  
29 records from “any State, Territory, or Possession of the United States” are entitled to full faith  
30 and credit under the Full Faith and Credit Clause. In *Stoll v. Gottlieb*, 305 U.S. 165, 170 (1938),  
31 the United States Supreme Court held that this statute also requires that full faith and credit be  
32 given to judgments of federal courts. States also have made determinations as to whether certain  
33 types of judgments are subject to the Full Faith and Credit Clause. Under the definition of  
34 “foreign country” in this Draft, the determination as to whether a governmental unit’s judgments  
35 are subject to full faith and credit standards should be made by reference to any relevant law,  
36 whether statutory or decisional, that is applicable “in this state.”  
37

38 The Draft’s definition of “foreign country” in terms of those judgments not subject to Full  
39 Faith and Credit standards also has the advantage of more effectively coordinating the Act with  
40 the Uniform Enforcement of Foreign Judgments Act. That Act, which establishes a registration  
41 procedure for the enforcement of sister state and equivalent judgments, defines a “foreign  
42 judgment” as “any judgment, decree, or order of a court of the United States or of any other court  
43 which is entitled to full faith and credit in this state.” Uniform Enforcement of Foreign

1 Judgments Act, §1 (1964). By defining “foreign country” in the Recognition Act in terms of  
2 those judgments not subject to full faith and credit standards, the Draft makes it clear that the  
3 Enforcement Act and the Recognition Act are mutually exclusive – if a foreign money judgment  
4 is subject to full faith and credit standards, then the Enforcement Act’s registration procedure is  
5 available with regard to its enforcement; if the foreign money judgment is not subject to full faith  
6 and credit standards, then the foreign money judgment may not be enforced until recognition of it  
7 has been obtained in accordance with the provisions of the Recognition Act.  
8

9 The definition of “foreign-country judgment” differs significantly from the current Act’s  
10 definition of “foreign judgment.” The current Act’s definition serves in large part as a scope  
11 provision for the Act. The part of the definition defining the scope of the Act has been moved to  
12 section 2, which is the scope section. Unlike the definition of “foreign judgment,” the definition  
13 of “foreign country judgment” refers to judgments of “a court” of the foreign country.  
14

15 The definition of “judgment debtor,” which appeared in earlier drafts, was deleted in the  
16 October, 2004 draft because that definition is no longer necessary in light of the Committee’s  
17 decision at its April, 2004 drafting committee meeting not to include a registration procedure in  
18 the Act.  
19

20 With regard to the problems leading to changes in this section, see generally the  
21 discussion in section III(A) of the Study Report.  
22

23 **Comments to be added:**

- 24 (1) A comment acknowledging that, while the concept of “governmental unit” will in  
25 most cases be clear, as the money judgment will be one issued by a court of a  
26 foreign country or one of its subdivisions, in some instances issues may arise, and  
27 the Recognition Act leaves those issues for determination by the courts. For  
28 example, a number of international tribunals, such as the International Court of  
29 Justice, the European Court of Justice, the Law of the Sea Tribunal, the European  
30 Court of Human Rights, and the Inter-American Court of Human Rights, issue  
31 judgments. Whether a money judgment issued by such a tribunal would constitute  
32 a judgment of a “foreign country” as a judgment of a governmental unit not  
33 subject to full faith and credit standards is left for determination by the courts. (It  
34 should be noted that the ALI International Jurisdiction and Judgments Project  
35 excludes judgments of international tribunals from its proposed Act).  
36
- 37 (2) A comment explaining that arbitral awards are excluded from the Recognition  
38 Act, but that a foreign-country money judgment confirming or setting aside an  
39 arbitral award is within the Recognition Act.  
40
- 41 (3) A comment explaining that a “judgment” need not take a particular form – any  
42 order or decree that meets the requirements of this section and comes within the

1 scope of the Act under Section 3 is subject to the Act. Similarly, any tribunal that  
2 issues such a “judgment” comes within the term “court” for purposes of the  
3 Recognition Act.  
4

5 (4) A comment explaining that a judgment need not be between two private parties in  
6 order to constitute a judgment for purposes of the Recognition Act. Judgments in  
7 which a governmental entity is a party also are included. (Such judgments, of  
8 course, would also have to meet the requirements of Section 3).  
9

10 **SECTION 3. SCOPE OF THE ACT.**

11 (a) Except as otherwise provided in subsection (b), this [act] applies to any  
12 foreign-country judgment to the extent that the foreign-country judgment  
13 (1) grants or denies recovery of a sum of money; and  
14 (2) under the law of the foreign country where rendered, is final,  
15 conclusive, and enforceable, even though an appeal from the foreign-country judgment is  
16 pending or the foreign-country judgment is subject to appeal in the foreign country where it was  
17 rendered.

18 (b) This [act] does not apply to a foreign-country judgment, even if the foreign-  
19 country judgment grants or denies recovery of a sum of money, to the extent that the foreign-  
20 country judgment is  
21 (1) a judgment for taxes;  
22 (2) a fine or other penalty; or  
23 (3) a judgment for divorce, support, or maintenance, or other judgment  
24 rendered in connection with domestic relations.

25 (c) The party seeking recognition of a foreign-country judgment has the burden of  
26 establishing that the foreign-country judgment meets the requirements of this section.



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## Reporter's Notes

This section is based on Section 2 of the current Act. Subsection (b) contains material that formerly was included as part of the definition of “foreign judgment.” For discussion of the problems caused by inclusion of this material in the definition of “foreign judgment,” see Study Report, section III (A) (3).

The domestic relations exclusion has been redrafted to make it clear that all judgments in domestic relations matters are excluded from the Act, not just judgments “for support” as provided in the current Act. See Study Report, section III (A) (4).

The October 2004 Draft added the qualifying phrase “if the foreign country judgment grants recovery of a sum of money” to the requirement that the foreign country judgment be enforceable where rendered in light of the fact that only judgments that grant recovery are eligible to be enforced. If the judgment denies recovery, then there is no money judgment to be enforced. The Drafting Committee decided at its October 2004 meeting to delete that phrase and place its substance in a comment.

Section 2 of the current Act does not contain any provision indicating who has the burden of proof to establish whether a foreign country judgment is within the scope of the Act. Courts generally have held that the burden of proof is on the person seeking recognition to establish that the judgment is final, conclusive and enforceable where rendered. *E.g.*, *Mayekawa Mfg. Co. Ltd. v. Sasaki*, 888 P.2d 183, 189 (Wash. App. 1995) (burden of proof on creditor to establish judgment is final, conclusive, and enforceable where rendered); *Bridgeway Corp. v. Citibank*, 45 F.Supp.2d 276, 285 (S.D.N.Y. 1999) (party seeking recognition must establish that there is a final judgment, conclusive and enforceable where rendered); *S.C.Chimexim S.A. v. Velco Enterprises, Ltd.*, 36 F. Supp.2d 206, 212 (S.D.N.Y. 1999) (Plaintiff has the burden of establishing conclusive effect). See Study Report, section III (B) (1). The Committee decided at its October 2004 meeting that the burden of proof to establish whether a foreign country judgment is within the scope of the Act should be on the party seeking recognition of the foreign country judgment with regard to both subsection (a) and subsection (b).

The Committee decided at its April 2004 meeting to add the “to the extent” language of subsection (3)(a) in order to make it clear that, if only part of a foreign country judgment meets the requirements of subsection (3)(a), then the foreign country judgment may be recognized under this Act to that extent. The Committee decided at its October 2004 meeting to add similar language to subsection (3)(b).

### Comments to be added:

- (1) A comment regarding the fact that the requirement that a foreign country judgment be “final, conclusive and enforceable where rendered” involves three distinct concepts, all of which must be present in order to satisfy the requirement.

- 1  
2  
3 (2) A comment discussing the fact that some countries set out VAT taxes as a  
4 separate element of a judgment from the purchase price and that this should not  
5 make the judgment to that extent one for taxes.  
6  
7 (3) A comment discussing the rationale for the domestic relations exclusion. The  
8 comment will note the tradition of different treatment of judgments in domestic  
9 relations matters, the fact that the considerations with regard to recognition of  
10 such judgments are somewhat different from those with regard to other  
11 foreign-country money judgments, that there is a sufficient degree of variation  
12 among foreign-country domestic relations judgments to warrant giving the states  
13 the ability to engage in a higher degree of scrutiny under principles of comity, and  
14 that other statutes (e.g., the Uniform Interstate Family Support Act and the federal  
15 International Child Support Enforcement Act, 42 U.S.C. §659a (1996)) address  
16 various aspects of the recognition and enforcement of domestic relations awards.  
17 The comment also will underline the fact that foreign-country money judgments  
18 in domestic relations matters are enforceable under principles of comity, despite  
19 their exclusion from the Recognition Act, and that courts normally do enforce  
20 them under comity principles.  
21  
22 (4) Comments discussing the rationale for the other exclusions from coverage –  
23 judgments for taxes and for fines and other penalties.  
24

25 **SECTION 4. STANDARDS FOR RECOGNITION OF FOREIGN COUNTRY**

26 **JUDGMENT.**

27 (a) Except as otherwise provided in subsections (b) and (c), a court of this state  
28 shall recognize a foreign-country judgment within the scope of this [act].

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

30 (1) the foreign-country judgment was rendered under a judicial system that  
31 does not provide impartial tribunals or procedures compatible with the requirements of due  
32 process of law;

33 (2) the foreign court did not have personal jurisdiction over the defendant;

34 or

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

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

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

5 (2) the foreign-country judgment was obtained by fraud that deprived the  
6 losing party of an adequate opportunity to present its case;

7 (3) the foreign-country judgment or the [cause of action] [claim for relief]  
8 on which the foreign country judgment is based is repugnant to the public policy of this state or  
9 of the United States;

10 (4) the foreign-country judgment conflicts with another final and  
11 conclusive judgment;

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

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

17 (7) the foreign-country judgment was rendered in circumstances that raise  
18 substantial doubt about the integrity of the rendering court with respect to the foreign-country  
19 judgment; or

20 (8) the specific proceeding in the foreign court leading to the foreign-  
21 country judgment was not compatible with the requirements of due process of law.

22 (d) The party resisting recognition of the foreign country judgment has the burden

1 of establishing that one of the grounds for nonrecognition stated in subsection (b) or (c) exists.

## 2 **Reporter’s Notes**

3  
4 This section is based on Section 4 of the current Act, and is the same in substance, except  
5 as noted below. For the general context of these amendments, see Study Report, section III (D),  
6 and particularly, section III (D)(3).  
7

8 Subsection (c)(2) clarifies the type of “fraud” that will serve as a ground for denying  
9 recognition. Courts interpreting this provision have found that only extrinsic fraud — conduct of  
10 the prevailing party that deprived the losing party of an adequate opportunity to present his case  
11 — is sufficient. The Draft follows these cases. See Study Report, Section III (D).  
12

13 The public policy exception in section 4 (b)(3) of the current Act says that recognition  
14 may be denied if “the cause of action” is repugnant to the State’s public policy. Based on this  
15 “cause of action” language, some courts have refused to find that a public policy challenge based  
16 on something other than repugnancy of the foreign cause of action comes within this exception.  
17 *E.g.*, *Southwest Livestock & Trucking Co., Inc. v. Ramon*, 169 F.3d 317 (5<sup>th</sup> Cir. 1999) (refusing  
18 to deny recognition to Mexican judgment on promissory note with interest rate of 48%);  
19 *Guinness PLC v. Ward*, 955 F.2d 875 (4<sup>th</sup> Cir. 1992) (challenge to recognition based on post-  
20 judgment settlement could not be asserted under public policy exception); *The Society of Lloyd’s*  
21 *v. Turner*, 303 F.3d 325 (5<sup>th</sup> Cir. 2002) ( rejecting argument legal standards applied to establish  
22 elements of breach of contract violated public policy because cause of action for breach of  
23 contract itself is not contrary to state public policy); *cf* *Bachchan v. India Abroad Publications,*  
24 *Inc.*, 585 N.Y.S.2d 661 (N.Y. Sup. Ct. 1992) (judgment creditor argued British libel judgment  
25 should be recognized despite argument it violated First Amendment because New York  
26 recognizes a cause of action for libel). Other courts have applied the public policy exception  
27 without taking any notice of this language. See Study Report, Section III (D)(2)(ii).  
28

29 At its October 2004 drafting committee meeting, the Committee decided that, in light of  
30 the decisions reading the public policy exception as narrowly focused on the cause of action, the  
31 language of subsection (c)(3) should be rewritten to include both the cause of action and the  
32 judgment itself. Under this language, if either the judgment or the cause of action upon which it  
33 is based is repugnant to public policy, the court has discretion to deny recognition to the foreign  
34 country judgment.  
35

36 The language “or of the United States” has been added to the public policy exception to  
37 make it clear that the relevant public policy is that of both the State in which recognition is  
38 sought and that of the United States. Most courts have recognized that state public policy also  
39 includes U.S. public policy (and principles of federalism would seem to dictate this result), but  
40 not all courts considering the issue have done so. *Compare* *Bachchan v. India Abroad*  
41 *Publications, Inc.*, 585 N.Y.S.2d 661 (Sup.Ct. N.Y. 1992) (British libel judgment denied  
42 recognition because it violates First Amendment; when public policy is found in U.S.

1 Constitution, denial of recognition is constitutionally mandated) *with* Reading & Bates Constr.  
2 Co. v. Baker Energy Resources Corp., 976 S.W.2d 702 (Tex. App. 1998) (refusing to consider  
3 public policy argument based on U.S. patent law because relevant policy is that of the state, and  
4 patent infringement is a matter of federal, not state, policy).  
5

6 Subsection (c)(7) is a new subsection that is based on a similar provision contained in  
7 section 5(a)(ii) of the ALI International Jurisdiction and Judgments Project. Under the current  
8 Recognition Act, a court must deny recognition to a foreign country judgment if  
9 “the judgment was rendered under a judicial system which does not provide impartial tribunals or  
10 procedures compatible with the requirements of due process of law.” This provision has been  
11 interpreted as focusing on the judicial system of the foreign country as a whole, rather than on  
12 whether the particular judicial proceeding leading to the foreign country judgment was impartial  
13 and fair. *E.g.*, *The Society of Lloyd’s v. Turner*, 303 F.3d 325, 330 (5<sup>th</sup> Cir. 2002); *CIBC Mellon*  
14 *Trust Co. v. Mora Hotel Corp., N.V.*, 743 N.Y.S.2d 408, 415 (N.Y. App. 2002); *Society of*  
15 *Lloyd’s v. Ashenden*, 233 F.3d 473, 477 (7<sup>th</sup> Cir. 2000). Subsection (c)(7) would allow the court  
16 also to consider a lack of impartiality and fairness in the individual proceeding leading to the  
17 foreign country judgment. See Study Report, section III (D)(1).  
18

19 During consideration of subsection (c)(7) at its April 2004 drafting committee meeting,  
20 members of the Committee expressed support for subsection (c)(7), noting that bribery and other  
21 forms of judicial misconduct can be a real issue with regard to certain foreign country judgments.  
22 On the other hand, Committee members also noted that the language of (c)(7) does not explicitly  
23 address the broader issue of procedural unfairness in the specific proceedings leading to the  
24 foreign country judgment. Subsection (c)(8) is designed to address the issue of procedural  
25 unfairness in specific proceedings.  
26

27 The addition of subsections (c)(7) and (8) raise the question of the relationship of these  
28 provisions to subsection (b)(1), which focuses on whether the judicial system as a whole provides  
29 impartial tribunals and is compatible with the requirements of due process of law. Is (b)(1)  
30 redundant in light of the addition of (c)(7) and (8), which allow a focus on these issues in the  
31 individual proceedings leading to the foreign country judgment? The Reporter believes that  
32 subsection (b)(1) still serves an important purpose. Subsection (b)(1) is a mandatory ground for  
33 denying recognition, while subsections (c)(7) and (8) are discretionary. Thus, if the entire  
34 judicial system in which a foreign country judgment was rendered does not provide impartial  
35 tribunals or procedures compatible with due process, the court is required to deny recognition to  
36 the foreign country judgment. On the other hand, if there is corruption or lack of due process in  
37 the particular proceedings leading to the foreign country judgment under subsection (c)(7) or (8),  
38 the court may, but need not, deny recognition. For example, a court might decide not to exercise  
39 its discretion to deny recognition despite evidence of corruption or procedural unfairness because  
40 the party resisting recognition failed to raise the issue on appeal from the foreign country  
41 judgment in the rendering state and the evidence establishes that, if the party had done so, appeal  
42 would have been an adequate mechanism for correcting the transgressions of the lower court.  
43

1 Subsection (d) allocates the burden of proof on the issue of nonrecognition to the party  
2 opposing recognition of the foreign judgment. Current section 4 is silent as to who has the  
3 burden of proof. Courts have taken different positions on the issue. Some courts, including the  
4 New York courts, hold that the person seeking recognition has the burden of establishing the  
5 nonexistence of the mandatory grounds for nonrecognition, while the person resisting recognition  
6 has the burden of establishing the existence of one of the nonmandatory grounds, *E.g.*,  
7 *Bridgeway Corp. v. Citibank*, 45 F.Supp. 2d 276, 285 (S.D.N.Y. 1999) (Plaintiff has burden to  
8 show no mandatory basis under 4(a) for recognition exists; defendant has burden regarding  
9 nondiscretionary bases); *S.C.Chimexim S.A. v. Velco Enterprises, Ltd.*, 36 F.Supp.2d 206, 212  
10 (S.D.N.Y. 1999) (burden of proof is on plaintiff regarding mandatory requirements and on  
11 defendant regarding discretionary requirements); *Dresdner Bank, AG v. Haque*, 161 F.Supp.2d  
12 259, 263 (S.D.N.Y. 2001) (plaintiff has burden of proof no mandatory ground for  
13 nonrecognition exists; defendant has burden of proof to establish that a discretionary basis for  
14 nonrecognition applies); *Banque Libanaise Pour Le Commerce v. Khreich*, 915 F.2d 1000, 1005  
15 (5<sup>th</sup> Cir. 1990) (discretionary grounds are phrased as affirmative defenses and thus burden of  
16 proof regarding them is on the defendant). Other courts hold that the person resisting recognition  
17 has the burden of proof with regard to both mandatory and discretionary grounds for  
18 nonrecognition. *E.g.*, *Kam-Tech Systems, Ltd. V. Yardeni*, 774 A.2d 644, 649 (N.J. App. 2001)  
19 (burden of proof to establish ground for nonenforcement should be on party asserting the ground,  
20 though burden might be shifted when fundamental fairness warrants it, as, for example, when the  
21 information about the foreign proceeding is peculiarly within the knowledge or control of the  
22 party seeking enforcement or is inordinately burdensome for the opponent to obtain); *The*  
23 *Courage Co. LLC v. The ChemShare Corp.*, 93 S.W.3d 323, 331 (Tex. App. 2002) (party seeking  
24 to avoid recognition has burden to prove ground for nonrecognition); *Dart v. Balaam*, 953  
25 S.W.2d 478, 480 (Tex. App. 1997) (burden is on the defendant regarding all grounds for  
26 nonrecognition); *Southwest Livestock & Trucking Co., Inc. v. Ramon*, 169 F.3d 317, 320 (5<sup>th</sup>  
27 Cir. 1999) (court must recognize judgment unless judgment debtor establishes one of the ten  
28 specific grounds for nonrecognition). See Study Report, section III (D)(4). The Committee  
29 decided at its April 2004 drafting committee meeting that placing the burden of proof on the  
30 party opposing recognition with regard to both mandatory and discretionary grounds for  
31 nonrecognition was appropriate.

32  
33 Some cases, such as *Kam-Tech*, cited above, have recognized an exception to this  
34 allocation when fundamental fairness indicates that the burden should be placed on the party  
35 seeking enforcement, for example when the information about the foreign proceeding is  
36 peculiarly within the knowledge or control of the party seeking enforcement or it is inordinately  
37 burdensome for the party opposing recognition to obtain information about the foreign  
38 proceeding. The Committee may wish to consider whether such an exception should be included  
39 in subsection (d).

40  
41 **Comments to be added:**  
42  
43

- 1 (1) A comment explaining that the standard for determining whether a judgment  
2 violates public policy is very high and thus only a narrow category of cases will be  
3 excluded based on the public policy exception;  
4  
5 (2) A comment providing examples of the application of subsections (c)(7) and  
6 (c)(8);  
7  
8 (3) A comment explaining that the due process standard is measured by fundamental  
9 fairness, not by the intricacies of what the courts have held due process to require  
10 in the domestic context;  
11  
12 (4) A comment providing examples of the application of subsection (c)(2).  
13

14 **SECTION 5. PERSONAL JURISDICTION.**

15 (a) A foreign-country judgment may not be refused recognition for lack of  
16 personal jurisdiction if:

- 17 (1) the defendant was served personally in the foreign country;
- 18 (2) the defendant voluntarily appeared in the proceeding, other than for the  
19 purpose of protecting property seized or threatened with seizure in the proceeding or of  
20 contesting the jurisdiction of the court over the defendant;
- 21 (3) the defendant, before the commencement of the proceeding, had agreed  
22 to submit to the jurisdiction of the foreign court with respect to the subject matter involved;
- 23 (4) the defendant was domiciled in the foreign country when the  
24 proceeding was instituted or was a corporation or other form of business organization that had its  
25 principal place of business in, or was organized under the laws of, the foreign country;
- 26 (5) the defendant had a business office in the foreign country and the  
27 proceeding in the foreign court involved a [cause of action] [claim for relief] arising out of  
28 business done by the defendant through that office in the foreign country; or

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

4 (b) The list of bases for personal jurisdiction in subsection (a) is not exclusive,  
5 and the courts of this state may recognize other bases of personal jurisdiction as sufficient to  
6 support a foreign-country judgment.

7 **Reporter's Notes**

8  
9 The substance of this section is the same as section 5 of the current Act, except as noted  
10 below. See Study Report, section III (E).

11  
12 Subsection (a)(4) has been revised to extend its concept to other forms of business  
13 organization in addition to corporations pursuant to a Committee decision at the April 2004  
14 drafting committee meeting.

15  
16 No changes were made to this section at the October 2004 drafting committee meeting.

17  
18 **Comments to be added:**

19  
20 (1) A comment to subsection (b)(3) indicating that the "agreed" language of that  
21 subsection allows the defendant to challenge the validity of the purported agreement to submit to  
22 the foreign court's jurisdiction.  
23

24 **SECTION 6. PROCEDURE FOR RECOGNITION OF FOREIGN-COUNTRY**  
25 **JUDGMENT.**

26 (a) If recognition of a foreign-country judgment is sought as an original matter,  
27 the issue of recognition shall be raised by filing an action seeking recognition of the foreign-  
28 country judgment.

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



1  
2  
3 **Reporter’s Notes**

4 The most troublesome interpretative issues that have arisen with regard to the current Act  
5 are those relating to the appropriate procedure for making the determination as to whether to  
6 recognize a foreign country judgment. The current Act is silent on this question. At common  
7 law, a foreign judgment, whether of a state or of a foreign country, was recognized by bringing  
8 an action on the foreign judgment in the courts of the state where recognition was sought to have  
9 the foreign judgment domesticated. Once domesticated, the judgment was treated as a judgment  
10 of the state in which the action to domesticate the judgment was filed, and could be enforced  
11 accordingly. The issue of recognition of foreign country judgments under the current Act still is  
12 most often raised by bringing an action on the foreign country judgment, and the current Act has  
13 worked fairly smoothly when the issue of recognition is raised in the context of such an action.

14 With regard to *enforcement* of sister state judgments, however, the registration procedure  
15 provided by the Uniform Enforcement of Foreign Judgments Act is available in most states.  
16 That Act allows a judgment creditor to obtain enforcement of a sister state judgment simply by  
17 filing an authenticated copy of the judgment in the clerk’s office in the forum state. By its terms,  
18 the Enforcement Act only applies to sister state judgments, and, therefore, its provisions do not  
19 provide for raising or determination of issues relating to recognition of a foreign judgment. With  
20 regard to sister state judgments, recognition is mandated by the Full Faith and Credit clause.  
21 Nevertheless, some courts have held that its registration procedure can be utilized with regard to  
22 a foreign country judgment without any separate determination of whether the foreign country  
23 judgment is entitled to recognition under the Act. *E.g.*, *Society of Lloyd’s v. Ashenden*, 233 F.3d  
24 473 (7<sup>th</sup> Cir. 2000). Other courts have held (correctly, it would seem) that the Enforcement Act  
25 only applies to enforcement of foreign judgments and, therefore, at best would be available as a  
26 means of enforcement of a foreign country judgment only after a separate proceeding had made  
27 the determination that the foreign country judgment was entitled to recognition. *E.g.*,  
28 *Matusевич v. Telnikoff*, 877 F.Supp. 1 (D.D.C. 1995); *Hennessy v. Marshall*, 682 S.W.2d 340  
29 (Tex. App. 1984). In fact, the lack of any procedure for raising defenses to recognition, as  
30 opposed to defenses to enforcement, under the Uniform Enforcement of Foreign Judgments Act  
31 has led some courts to find that if the Recognition Act is interpreted to authorize the use of the  
32 Enforcement Act as the means for determining whether a foreign country judgment should be  
33 recognized as well as enforced, then the Recognition Act is unconstitutional as applied when the  
34 Enforcement Act is the procedure used because the party opposing recognition is denied notice  
35 and a hearing with regard to issues related to recognition of the foreign country judgment. *E.g.*,  
36 *Detamore v. Sullivan*, 731 S.W.2d 122 (Tex. App. 1987); *Plastics Engineering Inc. v. Diamond*  
37 *Plastics Corp.*, 764 S.W. 2d 924 (Tex. App. 1989). (In *Don Dockstader Motors, Ltd. v. Patal*  
38 *Enterprises, Ltd*, 794 S.W. 2d 760 (Tex. 1990), the Texas Supreme Court disapproved of the  
39 decisions in *Detamore* and *Plastics Engineering* to the extent those decisions were in conflict  
40 with its decision that the current Act was constitutional when the procedure for recognition and  
41 enforcement was the filing of an action on the judgment rather than use of the Enforcement Act  
42 procedure; because the *Detamore* and *Plastics Engineering* decisions were based specifically on  
43 use of the Enforcement Act rather than an action on the judgment, however, their core rationale

1     apparently remains intact.)  
2

3             Some states have nonuniform amendments to the current Act that provide for a  
4     recognition procedure. New York, for example, provides that recognition of a foreign country  
5     judgment may be raised “by an action on the judgment, a motion for summary judgment in lieu  
6     of complaint, or in a pending action by counterclaim, cross-claim or affirmative defense.”  
7     Florida has a nonuniform amendment creating a registration procedure in which issues of  
8     recognition may be raised.  
9

10            For further discussion of these issues, see Study Report, section III (C).  
11

12            This section explicitly sets out the ways in which the issue of recognition may be raised.  
13     It contemplates that recognition may come up in the context of a pending proceeding (usually,  
14     although not always, because one of the parties wants to assert the preclusive effect of the  
15     foreign country judgment) or as an original matter. When the issue of recognition is raised as an  
16     original matter, this section follows those states that have required that the party seeking  
17     recognition bring an action on the foreign country judgment requesting that the court recognize  
18     the foreign country judgment. As is current practice, such an action could, and often would,  
19     include a request for relief in addition to recognition, such as a request that the court enforce the  
20     judgment or a request for prejudgment relief to preserve assets pending determination of the  
21     action.  
22

23            At its April 2004 drafting committee meeting, the Committee considered and ultimately  
24     rejected a provision that would alternatively have allowed the recognition issue to be raised  
25     through a registration procedure analogous to that provided by the Uniform Enforcement of  
26     Foreign Judgments Act for sister-state judgments. The Committee decided that a registration  
27     procedure was not appropriate in the context of recognition of foreign country judgments. The  
28     Committee concluded that the safeguards that would be required in a foreign country judgment  
29     registration procedure in order to adequately protect the judgment debtor would remove most, if  
30     not all, of the efficacy of a registration procedure for the judgment creditor.  
31

32            A registration procedure represents a balance between the interest of the judgment  
33     creditor in obtaining quick and efficient recognition and enforcement of a judgment when the  
34     judgment debtor has already been provided with an opportunity to litigate the underlying issues,  
35     and the interest of the judgment debtor in being provided an adequate opportunity to raise and  
36     litigate issues regarding whether the foreign country judgment should be recognized. In the  
37     context of sister-state judgments, this balance favors use of a truncated procedure such as that  
38     found in the Enforcement Act. Recognition of sister-state judgments normally is mandated by the  
39     Full Faith and Credit Clause. Courts recognize only a very limited number of grounds for  
40     denying full faith and credit to a sister-state judgment – that the rendering court lacked  
41     jurisdiction, that the judgment was procured by fraud, that the judgment has been satisfied, or  
42     that the limitations period has expired. Thus, the judgment debtor with regard to a sister-state  
43     judgment normally does not have any grounds for opposing recognition and enforcement of the

1 judgment. The extremely limited grounds for denying full faith and credit to a sister-state  
2 judgment reflect the fact such judgments will have been rendered by a court that is subject to the  
3 same due process limitations and the same overlap of federal statutory and constitutional law as  
4 the forum state's courts, and, to a large extent, the same body of court precedent and socio-  
5 economic ideas as those shaping the law of the forum state. Therefore, there is a strong  
6 presumption of fairness and competence attached to a sister-state judgment that justifies use of a  
7 registration procedure.  
8

9 The balance between the benefits and costs of a registration procedure is significantly  
10 different, however, in the context of recognition and enforcement of foreign country judgments.  
11 Unlike the limited grounds for denying full faith and credit to a sister-state judgment, the  
12 Recognition Act provides a number of grounds upon which recognition of a foreign country  
13 judgment may be denied. Determination of whether these grounds apply requires the court to  
14 look behind the foreign country judgment to evaluate the law and the judicial system under  
15 which the foreign country judgment was rendered. The existence of these grounds for  
16 nonrecognition reflects the fact there is less expectation that foreign country courts will follow  
17 procedures comporting with U.S. notions of due process and jurisdiction or that those courts will  
18 apply laws viewed as substantively tolerable by U.S. standards. In some situations, there also  
19 may be suspicions of unfairness or fraud in the foreign country proceedings. These differences  
20 between sister-state judgments and foreign country judgments provide a justification for  
21 requiring judicial involvement in the decision whether to recognize a foreign country judgment in  
22 all cases in which that issue is raised.  
23

24 The Drafting Committee considered whether a registration procedure could be devised  
25 that would adequately protect the judgment debtor in the foreign country judgment context while  
26 still providing expedited recognition and enforcement for the judgment creditor. Unlike the  
27 Enforcement Act registration procedure for sister-state judgments, the draft registration  
28 procedure considered by the Committee provided that the filing of the foreign country judgment  
29 with the clerk of court had no effect for 45 days after notice of registration of the foreign country  
30 judgment was sent to the judgment debtor. The Committee concluded that, in order to  
31 adequately protect the judgment debtor, the registration procedure also would have to require that  
32 the judgment debtor be served with notice of the registration in the same manner as the judgment  
33 debtor would be served with process if an action on the judgment were filed, rather than simply  
34 being mailed a notice of registration of the judgment as provided in the Enforcement Act.  
35

36 Two of the main advantages of a registration procedure to the judgment creditor,  
37 however, are the ability to provide notice by mail to the judgment debtor in lieu of more formal  
38 service of process and to obtain the right to collect on the judgment simply by registering it.  
39 Once the Committee determined that these two features must be removed in order to strike an  
40 appropriate balance between the interests of the judgment creditor and the judgment debtor in the  
41 foreign country judgment context, the Committee concluded that the resulting registration  
42 procedure would not be likely to be much more efficient than simply filing an action on the  
43 foreign country judgment.

1 Further, a registration procedure has at least one significant disadvantage for the  
2 judgment creditor – because it does not involve the court, it does not allow the judgment creditor  
3 to obtain prejudgment relief. Thus, if a judgment creditor is concerned about assets of the  
4 judgment debtor disappearing or otherwise wishes to seek prejudgment relief, the judgment  
5 creditor likely will opt for an action on the foreign country judgment even if a registration  
6 procedure is available as an alternative.

7  
8 For these reasons, the Committee decided at its April 2004 drafting committee meeting  
9 that a registration procedure was not an appropriate means for recognition of foreign country  
10 judgments. This section thus provides that the only way in which the issue of recognition may be  
11 raised under the Act is in a court proceeding.

12  
13 The Committee also briefly considered whether the New York approach, which allows a  
14 judgment creditor to bring an action on a foreign country judgment by filing a motion for  
15 summary judgment in lieu of complaint, might be adopted. Because the New York approach  
16 would involve a rule of civil procedure, it was suggested that this approach would run into  
17 enactment difficulties in states in which rules of procedure are adopted by the State Supreme  
18 Court rather than by the legislature. Therefore, the Committee decided not to pursue this  
19 alternative.

20  
21 **Comments to be added:**

- 22  
23 (1) A comment discussing the fact that an action on the foreign-country judgment  
24 under section 6 is a separate action from the action that gave rise to the foreign-  
25 country judgment, and that the parties cannot relitigate issues raised in the original  
26 action leading to the foreign-country judgment in the action to have the judgment  
27 recognized.
- 28  
29 (2) A comment flagging the issue of whether presence of assets of the debtor in a  
30 state is a sufficient basis for personal jurisdiction over the debtor in light of  
31 *Shaffer v. Heitner*, 433 U.S. 186, 210 n.36 (1977), noting that courts are split on  
32 this issue, and indicating that this Act takes no position with regard to that issue.
- 33  
34 (3) A comment noting that this Act does not effect state procedural requirements, and  
35 that the procedures for raising the issue of recognition stated in section 6 must  
36 comply with all state procedural rules with regard to those types of actions.
- 37

38 **SECTION 7. EFFECT OF RECOGNITION OF FOREIGN-COUNTRY**

39 **JUDGMENT UNDER THIS [ACT].** If the court in a proceeding under Section 6 finds that the  
40 foreign-country judgment is entitled to recognition under this [act], then the foreign-country

1 judgment

2 (a) is conclusive between the parties to the extent that it grants or denies recovery  
3 of a sum of money; and

4 (b) is enforceable in the same manner and to the same extent as a judgment of this  
5 state.

6 **Reporter’s Notes**

7 The substance of subsection (a) is the same as that in Section 3 of the current Act. The  
8 material has been relocated as part of a reordering of the Act necessitated by the addition of  
9 provisions dealing with the procedure for recognition of foreign country judgments.

10  
11 Subsection (b) is new. Section 3 of the current Recognition Act provides that a foreign  
12 country judgment meeting the requirements of the Act “is enforceable in the same manner as the  
13 judgment of a sister state which is entitled to full faith and credit.” The Committee decided at its  
14 October 2004 drafting committee meeting that it would be more appropriate to provide that a  
15 foreign country judgment that is entitled to recognition under the Act is enforceable in the same  
16 manner and to the same extent as a judgment of the recognizing state.

17  
18 **SECTION 8. STAY OF PROCEEDINGS PENDING APPEAL OF FOREIGN-**

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

24 **Reporter’s Notes**

25  
26 This section is the same substantively as section 6 of the current Act, except that it adds  
27 as an additional measure for the duration of the stay “the time for appeal expires.”

28  
29 The reference to “defendant” in section 6 of the current Recognition Act has been  
30 changed to a reference to “a party.”

1 No changes were made in this section at the October 2004 drafting committee meeting.  
2

3 **SECTION 9. TIME IN WHICH TO COMMENCE AN ACTION.**

4 (a) An action to recognize a foreign-country judgment for the purpose of having  
5 that foreign-country judgment enforced by this state must be commenced within the earlier of the  
6 time during which the foreign-country judgment may be enforced in the foreign country in which  
7 the foreign-country judgment was rendered or 15 years from the date that the foreign-country  
8 judgment was entered in the foreign country in which the foreign country judgment was  
9 rendered.

10 (b) This section does not apply to recognition of a foreign-country judgment  
11 solely for the purpose of giving the foreign-country judgment preclusive effect or when  
12 recognition of the foreign-country judgment is sought solely to use the foreign-country judgment  
13 as a setoff.

14 **Reporter's Notes**

15  
16 The current Act does not contain a statute of limitations. Some courts have applied the  
17 state's general statute of limitations, *E.g.*, *Vrozos v. Sarantopoulos*, 552 N.E.2d 1053 (Ill. App.  
18 1990) (as Recognition Act contains no statute of limitations, general five-year statute of  
19 limitations applies), while others have applied the statute of limitations applicable with regard to  
20 enforcement of a domestic judgment, *E.g.*, *La Societe Anonyme Goro v. Conveyor Accessories,*  
21 *Inc.*, 677 N.E. 2d 30 (Ill. App. 1997). See Study Report, section III (F)(1).  
22

23 The Recognition Act only applies to foreign country judgments that are enforceable  
24 where rendered. Thus, if the period of limitations on enforcement has expired in the rendering  
25 state, the foreign country judgment would not be subject to the Recognition Act. At its April  
26 2004 drafting committee meeting, the Committee decided that, while the period during which a  
27 foreign country judgment may be recognized under this Act normally should be measured by the  
28 period during which it is enforceable in the rendering state, when recognition is sought for  
29 purposes of enforcement of the foreign country judgment in the forum state, an outer limit of  
30 fifteen years should be placed on the ability to bring an action seeking recognition of the foreign  
31 country judgment.

1 This section only applies to an action seeking recognition for purposes of enforcing the  
2 foreign country judgment. It does not apply to recognition of the foreign country judgment for  
3 the purpose of giving the foreign country judgment preclusive effect or for the purpose of  
4 asserting the foreign country judgment as a setoff.  
5

6 **Comments to be added:**  
7

- 8 (1) A comment pointing out that the exception of subsection (b) is a standard  
9 exception with regard to application of a statute of limitations.  
10  
11 (2) A comment discussing the relationship of this section to section 3 (which provides  
12 that a foreign country judgment must be enforceable where rendered in order to be  
13 within the scope of the Act.)  
14

15 **SECTION 10. SAVING CLAUSE.** This [act] does not prevent the recognition under  
16 principles of comity or otherwise of a foreign-country judgment not within the scope of this [act].

17 **Reporter's Notes**  
18

19 This section is the same in substance as Section 7 of the current Act. The use of the  
20 defined term "foreign country judgment" to mean any judgment of a foreign country, including  
21 those not covered by this Act, rather than the defined term "foreign judgment" in Section 7 of the  
22 current Act, which was defined as limited to foreign judgments covered by the Act, is intended to  
23 resolve the ambiguity noted by courts and commentators as to the meaning of the saving clause.  
24 See Study Report, section III (A)(3).  
25

26 The section was rewritten based on comments at the April 2004 drafting committee  
27 meeting. No changes were made to this section at the October 2004 drafting committee meeting.  
28

29 **SECTION 11. UNIFORMITY OF INTERPRETATION.** In applying and construing  
30 this uniform [act], consideration must be given to the need to promote uniformity of the law with  
31 respect to its subject matter among the states that enact it.

32 **Reporter's Notes**  
33

34 This section is substantively the same as Section 8 of the current Act. The section has  
35 been rewritten to reflect current Conference practice.  
36





1  
2 **American Law Institute, International Jurisdiction and Judgments Project, Tentative Draft**  
3 **No. 2 (April, 13, 2004)**  
4

5 **§7 Reciprocal Recognition and Enforcement of Foreign Judgments**  
6

7 A foreign judgment shall not be recognized or enforced in a court in the United States if the court finds that  
8 comparable judgments of courts in the United States would not be recognized or enforced in the courts  
9 of the state of origin.

10  
11 A judgment debtor or other person resisting recognition or enforcement of a foreign judgment in accordance  
12 with this section shall raise the defense of lack of reciprocity with specificity as an affirmative defense.  
13 Once the defense of lack of reciprocity is raised, [the judgment creditor or other person seeking to rely  
14 on the foreign judgment shall have the burden to show that the courts of the state of origin would grant  
15 recognition and enforcement to comparable judgments of courts in the United States] [the party  
16 resisting recognition or enforcement shall have the burden to show that there is substantial doubt that  
17 the courts of the state of origin would grant recognition or enforcement to comparable judgments of  
18 courts in the United States.] Such showing may be made through expert testimony, or by judicial  
19 notice if the law of the state of origin or decisions of its courts are clear.  
20

21 In making the determination required under subsections (a) and (b), the court shall, as appropriate, inquire  
22 whether the courts of the state of origin deny enforcement to  
23

24 judgments against nationals of that state in favor of nationals of another state;  
25 judgments originating in the courts of the United States or of a state of the United States;  
26 judgments for compensatory damages rendered in actions for personal injury or death;  
27 judgments for statutory claims;  
28 particular types of judgments rendered by courts in the United States similar to the foreign  
29 judgment for which recognition or enforcement is sought;  
30 recognition practice of the state of origin with regard to judgments of other states.  
31

32 Denial by courts of the state of origin of enforcement of judgments for punitive, exemplary, or multiple  
33 damages shall not be regarded as denial of reciprocal enforcement of judgments for the purposes of this  
34 section if the courts of the state of origin would enforce the compensatory portion of such judgments.  
35

36 The Secretary of State is authorized to negotiate agreements with foreign states or groups of states setting  
37 forth reciprocal practices concerning recognition and enforcement of judgments rendered in the United  
38 States. The existence of such an agreement between a foreign state or group of foreign states and the  
39 United States establishes that the requirement of reciprocity has been met as to judgments within the  
40 agreement. The fact that no such agreement between the state of origin and the United States is in  
41 effect, or that the agreement is not applicable with respect to the judgment for which recognition or  
42 enforcement is sought, does not of itself establish that the state fails to meet the reciprocity requirement  
43 of this section.  
44

45 (f) A party seeking to raise a defense under this section may, in appropriate cases, be required to give  
46 security.