

D R A F T  
FOR DISCUSSION ONLY

# REGISTRATION OF CANADIAN MONEY JUDGMENTS ACT

---

NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

---

April 5-6, 2019 Joint Drafting Committee Meeting

Copyright © 2019  
By  
NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

---

*The ideas and conclusions set forth in this draft, including the proposed statutory language and any comments or reporter's notes, have not been passed upon by the National Conference of Commissioners on Uniform State Laws or the drafting committee. They do not necessarily reflect the views of the Conference and its commissioners and the drafting committee and its members and reporter. Proposed statutory language may not be used to ascertain the intent or meaning of any promulgated final statutory proposal.*

March 22, 2019

## **REGISTRATION OF CANADIAN MONEY JUDGMENTS ACT**

The Committee appointed by and representing the National Conference of Commissioners on Uniform State Laws in preparing this Act consists of the following individuals:

LISA R. JACOBS, One Liberty Place, 1650 Market St., Suite 5000, Philadelphia, PA 19103-7300, *Chair*

H. KATHLEEN PATCHEL, 5715 E. 56th St., Indianapolis, IN 46226, *National Conference Reporter*

JAMES P. GEORGE, Texas A&M University School of Law, 1515 Commerce St., Ft. Worth, TX 76102, *Research Reporter*

W. GRANT CALLOW, 425 G St., Suite 610, Anchorage, AK 99501

JOHN L. CARROLL, Cumberland School of Law, Samford University, 800 Lakeshore Dr., Birmingham, AL 35229

ARTHUR L. CLOSE, Uniform Law Conference of Canada, 234 4th Ave., New Westminster, BC V3L 1N7, *ULCC Member*

CLARK W. DALTON, Uniform Law Conference of Canada, 9909 - 110th St., Suite 203, Edmonton, AB T5K 2E5, *ULCC Member*

RUSSELL GETZ, Ministry of Attorney General, P.O. Box 9283, Stn. Pov. Govt., 8th Floor, 1001 Douglas St., Victoria, BC V8W 9J7, *ULCC Member*

THOMAS S. HEMMENDINGER, 362 Broadway, Providence, RI 02909-1434

PETER J. LOWN, Box 11, Site 4 RR1, Westeros, AB T0C 2V0, *ULCC Member*

REED L. MARTINEAU, 5458 Merlyn Dr., Salt Lake City, UT 84117

DARCY MCGOVERN, Saskatchewan Justice, 8th Floor, 1874 Scarth St., Regina, SK S4P 3V7, *ULCC Member*

ROBERT J. TENNESSEN, 2522 Thomas Ave. S., Minneapolis, MN 55405

ERIC WEEKS, Office of Legislative Research and General Counsel, 210 House Bldg., Utah State Capitol Complex, Salt Lake City, UT 84114-5210

### **EX OFFICIO**

ANITA RAMASASTRY, University of Washington School of Law, William H. Gates Hall, Box 353020, Seattle, WA 98195-3020, *President*

JULIET M. MORINGIELLO, Widener University Commonwealth Law School, 3800 Vartan Way, Harrisburg, PA 17110-9742, *Division Chair*

### **AMERICAN BAR ASSOCIATION ADVISORS**

STEVEN M. RICHMAN, 210 Carnegie Ctr., Suite 102, Princeton, NJ 08540-6233, *ABA Advisor*

JAY D. ADKISSON, 2850 W. Horizon Ridge Pkwy., Suite 200, Henderson, NV 89052, *ABA Section Advisor*

STEPHEN J. CURLEY, 1 Atlantic St., Suite 604, Stamford, CT 06901-2402, *ABA Section Advisor*

### **EXECUTIVE DIRECTOR**

STEVEN L. WILLBORN, 111 N. Wabash Ave., Suite 1010, Chicago, IL 60602, *Interim Executive Director*

Copies of this act may be obtained from:

NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS  
111 N. Wabash Ave., Suite 1010  
Chicago, Illinois 60602  
312/450-6600  
[www.uniformlaws.org](http://www.uniformlaws.org)

# REGISTRATION OF CANADIAN MONEY JUDGMENTS ACT

## TABLE OF CONTENTS

Prefatory Note.....	1
SECTION 1. SHORT TITLE.....	2
SECTION 2. DEFINITIONS.....	2
SECTION 3. APPLICABILITY.....	2
SECTION 4. REGISTRATION OF CANADIAN JUDGMENT.....	4
SECTION 5. EFFECT OF REGISTRATION.....	7
SECTION 6. NOTICE OF REGISTRATION.....	9
SECTION 7. [PETITION] TO SET ASIDE REGISTRATION.....	11
SECTION 8. STAY OF ENFORCEMENT PROCEEDINGS.....	14
SECTION 9. RELATIONSHIP TO UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT.....	15
SECTION 10. UNIFORMITY OF APPLICATION AND INTERPRETATION.....	17
SECTION 11. TRANSITIONAL PROVISION.....	17
SECTION 12. EFFECTIVE DATE.....	17



1                                   **REGISTRATION OF CANADIAN MONEY JUDGMENTS ACT**

2                   **SECTION 1. SHORT TITLE.** This [act] may be cited as the Registration of Canadian

3 Money Judgments Act.

4                                   **Reporter’s Notes**

5 The Drafting Committee agreed at its March 9-10 Drafting Committee Meeting to request  
6 approval to change the name of the Act from “Registration of Foreign Judgments to Harmonize  
7 the Law of Canada and the United States” to the “Registration of Canadian Money Judgments  
8 Act.” The consensus was that the proposed new name better reflected the content of the Act. The  
9 ULC Executive Committee approved the name change at its April 5, 2018 meeting.

10  
11                   **SECTION 2. DEFINITIONS.** In this [act]:

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

13 “Canadian” has a corresponding meaning.

14                   (2) “Canadian judgment” means a judgment of a court of Canada, other than a judgment

15 that recognizes the judgment of another foreign country.

16                                   **Reporter’s Notes**

17  
18 1. These definitions are analogs to the definitions of “Foreign country” and “Foreign-country  
19 judgment,” which are the only two defined terms in the UFCMJRA.

20  
21 2. The Canadian UEFJA does not apply to foreign judgments “that recognize the judgment of  
22 another foreign State.” UEFJA §3(d). The UFCMJRA is silent on the issue. Because the  
23 Drafting Committee’s charge is to draft a statute that covers judgments that come within the  
24 scope of both the Canadian UEFJA and the UFCMJRA, this type of judgment has been excluded  
25 from the definition of “Canadian judgment” in this Act. The exclusion is embodied in the  
26 definition of “Canadian judgment” rather than in Section 3 dealing with Applicability of the Act  
27 as the best way to avoid any negative implication as to whether such judgments are within the  
28 scope of the UFCMJRA.

29  
30                   **SECTION 3. APPLICABILITY.**

31                   (a) This [act] applies to a Canadian judgment to the extent the judgment is within the  
32 scope of [cite to Section 3 of the Uniform Foreign-Country Money Judgments Recognition Act].

33                   (b) A Canadian judgment that grants both recovery of a sum of money and other relief

1 may be registered under this [act], but only to the extent of the grant of monetary relief.

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

### 5 **Reporter’s Notes**

6  
7 1. The charge of the Joint Drafting Committee is to draft a registration act for final and  
8 conclusive Canadian money judgments that come within the scope of both the UFCMJRA and  
9 the Canadian UEFJA. Section 3 of the UFCMJRA sets out the scope of that Act. The limit in  
10 the Joint Drafting Committee’s charge to final and conclusive money judgments derives from  
11 that Section, which states that the UFCMJRA applies to a foreign-country judgment to the extent  
12 the judgment (1) grants or denies recovery of a sum of money; and is (2) final, conclusive and  
13 enforceable under the law of the rendering jurisdiction. (Canada’s UEFJA applies more broadly  
14 to a final order or judgment in a civil proceeding.) UFCMJRA Section 3 also excludes (1)  
15 judgments for taxes; (2) a fine or other penalty; and (3) a judgment for divorce, support, or  
16 maintenance, or other judgment in connection with domestic relations. Canada’s UEFJA Section  
17 3 contains analogous exclusions for (1) recovery of taxes; (2) maintenance or support; and (3)  
18 recovery of monetary fines or penalties. At its October 27-28, 2017 meeting, the Joint Drafting  
19 Committee determined that these exclusions in the U.S. and Canadian Acts were sufficiently  
20 similar as to not present a problem with regard to harmonization of the scope of Canada’s  
21 UEFJA registration procedure and that to be developed for the United States by the Joint  
22 Drafting Committee.

23  
24 Canada’s UEFJA, however, does contain three additional exclusions that are not in Section 3 of  
25 the UFCMJRA – (1) foreign judgments “arising out of bankruptcy and insolvency proceedings  
26 as defined in Part XIII of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended;”  
27 (2) “that recognize the judgment of another foreign State;” and (3) “rendered in proceedings  
28 commenced before the coming into force of this Act.”

29  
30 A subcommittee of the Joint Drafting Committee was appointed at the October 27-28, 2017  
31 Drafting Committee meeting to study the first of these exclusions, and determined that there was  
32 no need to provide an exclusion from this Act for that type of judgment. The Subcommittee  
33 determined that two categories of money judgments could be implicated in connection with  
34 bankruptcy proceedings – (1) orders allowing or disallowing a claim against the debtor or its  
35 estate, and (2) orders adjudicating a claim by the debtor or its estate against a non-debtor. The  
36 Subcommittee concluded that the Canadian UEFJA exclusion was intended to address the first  
37 category of judgments. Under Canadian law, both bankruptcy and non-bankruptcy matters are  
38 heard in the provincial courts. The UEFJA exclusion thus serves as a jurisdictional provision that  
39 directs the provincial courts to apply the recognition rules of its bankruptcy law rather than those  
40 of the Canadian UEFJA to this type of judgment. A similar exclusion is not needed under U.S.  
41 law because, under U.S. bankruptcy law, the first category of judgments (money judgments

1 against the debtor or its estate) is required to be filed in connection with the bankruptcy  
2 proceedings. The Subcommittee further determined that the second category of judgments –  
3 money judgments against non-debtors – would not come within the Canadian UEFJA exclusion  
4 for those “arising out of bankruptcy and insolvency proceedings”, and also would be a type of  
5 judgment subject to the UFCMJRA. Therefore, current law provides parity with regard to  
6 recognition of bankruptcy-related judgments without the need to provide an exclusion in this  
7 Act.

8  
9 The second of the Canadian UEFJA exclusions is covered in this Act by the exclusion of  
10 judgments recognizing the judgment of another foreign State from the definition in Section 2 (2)  
11 of “Canadian judgment.” The third exclusion is covered in Section 10, providing that the Act  
12 has no retroactive effect. (Section 12 of UFCMJRA has a similar provision.)

13  
14 2. The Joint Drafting Committee determined at its October 27-28, 2017 Drafting Committee  
15 Meeting that it was important to provide guidance with regard to so-called “mixed judgments” –  
16 judgments that contain aspects that are in the scope of the registration act and others that are not.  
17 The UFCMJRA deals with this question by providing in UFCMJRA Section 3 that the  
18 UFCMJRA applies to mixed judgments “*to the extent*” they are within its scope. This section  
19 also uses the “to the extent” formulation in order to track the scope of the UFCMJRA. In  
20 addition, subsections 3(b) and (c) make it clear that a mixed judgment may be registered to the  
21 extent that it involves the type of relief and subject matter that is within the scope of the  
22 UFCMJRA and thus within the scope of this Act. Subsections (b) and (c) originally were  
23 contained in Section 4, but the Joint Drafting Committee determined at its March 9-10 Drafting  
24 Committee Meeting that it would be more logical to place them in Section 3.

25  
26 3. A Canadian judgment could contain elements that are within the scope of this Act, and others  
27 that are not, in one of two ways. First, the judgment could combine a monetary award (which  
28 would be within the Act’s scope) with a non-monetary award, such as an injunction (which  
29 would not be within its scope). *See* UFCMJRA Section 3(a). Second, the judgment could relate  
30 to both a subject matter within the scope of the Act and one that is excluded. *See* UFCMJRA  
31 Section 3(b). Subsection (b) of this Act addresses the first situation, providing that a judgment  
32 that grants both monetary and non-monetary damages may be registered, but only to the extent of  
33 the grant of monetary relief. Subsection (c) of this Act addresses the second situation, providing  
34 that a judgment that is issued with regard to both a subject matter within the scope of the Act and  
35 one that is outside its scope may be registered, but only to the extent the judgment relates to the  
36 subject matter within the scope of this Act.

#### 37 38 **SECTION 4. REGISTRATION OF CANADIAN JUDGMENT.**

39 (a) A person seeking recognition of a Canadian judgment in order to enforce the  
40 judgment may register the judgment in the office of the [clerk] of a court in which an action for  
41 recognition of the judgment could be filed under [cite to Section 6 of the Uniform Foreign-

1 Country Money Judgments Recognition Act].

2 (b) A registration under subsection (a) must include:

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

5 (2) a statement executed by the person seeking registration, or the person's  
6 attorney, stating:

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

9 (B) the judgment is within the scope of this [act]; and

10 (C) if the judgment is described in section 3(b) or (c), the part of the  
11 judgment for which registration is sought;

12 (3) if the judgment is not in English, a certified translation of the judgment into  
13 English; and

14 (4) [ a registration fee of \$ [\_\_\_\_\_] [the registration fee stated in [cite to applicable  
15 statute]].

16 (c) On receipt of a registration that includes the documents required by subsection (b) and  
17 payment of the registration fee, the [clerk] shall file the registration, assign a [registration] docket  
18 number, and enter the judgment in the court's [registration] docket.

19 **Reporter's Notes**

20  
21 1. Section 3 states the scope of this Act in terms of *type* of judgment – this Act applies to a  
22 judgment to the extent the judgment is a type of judgment to which the UFCMJRA applies.  
23 Subsection 4(a) further limits the availability of the registration procedure based on the *purpose*  
24 for which recognition is sought. It provides that a person may register a Canadian judgment if  
25 recognition is sought in order to enforce the judgment (i.e. to use available procedures in the  
26 state to collect the amount of the judgment from the assets of a person against whom it was  
27 rendered.) The registration procedure thus is not available when recognition of a Canadian

1 judgment is sought solely to establish its preclusive effect with regard to the determination of the  
2 dispute (or issues in the dispute) by the rendering court. The decision to limit the Act to  
3 recognition for the purpose of enforcement was made by the Joint Drafting Committee at its  
4 March 9-10, 2018 Drafting Committee Meeting. The Joint Drafting Committee believed that the  
5 issue of recognition of a foreign judgment solely to establish its preclusive effect inevitably will  
6 be raised in the course of an already-initiated court proceeding, and, thus, is best dealt with under  
7 the procedures of Section 6 of the UFCMJRA. Limiting the registration procedure established  
8 by this Act to situations when recognition is sought for purposes of enforcement also brings this  
9 Act more closely into alignment with the registration procedure in the Canadian UEFJA, which  
10 focuses on enforcement of judgments. *See* UEFJA § 12(1) (“[a] foreign judgment that is  
11 enforceable under this Act may be registered ...”).

12  
13 2. The term “clerk” is bracketed in this Section and Section 6 in recognition that each state will  
14 need to insert the officer who will handle the registration process in that state. A Legislative  
15 Note to that effect will be required in the final draft.

16  
17 3. Subsection (b)(1) is based on Canadian UEFJA Section 12(4)(a), which provides that the  
18 appropriate certification is that of the court of origin. The word “authenticated” has been used  
19 rather than “certified” to avoid any implication that a particular procedure is required. The  
20 procedure contemplated is that normally required in this State for the authentication of foreign  
21 country judgments.

22  
23 4. Subsection (b)(2) is in effect a requirement that the person seeking registration provide a  
24 statement that the judgment sought to be registered is of a type to which the UFCMJRA (and  
25 thus this Act) applies. Under UFCMJRA Section 3(c), the party seeking recognition has the  
26 burden to establish that the UFCMJRA applies to the foreign-country judgment. *Cf.* The Hague  
27 Convention on Choice of Court Agreements of 30 June 2005, Art. 13 1. d) (requiring person  
28 seeking recognition of a judgment to produce “any documents necessary to establish that the  
29 judgment has effect or, where applicable, is enforceable in the State or origin”); Uniform Choice  
30 of Court Agreements Implementation Act (2012), §19(a)(4) (same). The same is true under this  
31 Act. *See* Section 9(a) (except for UFCMJRA Section 6, UFCMJRA rules apply to registration  
32 under this Act). If only a portion of the judgment is within the scope of the UFCMJRA (and thus  
33 within this Act), subsection (b)(2)(C) requires identification of the portion for which recognition  
34 by registration is sought.

35  
36 5. As discussed in the notes to Section 3, the limited scope of this Act means it is possible for a  
37 Canadian judgment to contain elements that are within the scope of this Act, and others that are  
38 not. First, the judgment could combine a monetary award (which would be within the Act’s  
39 scope) with a non-monetary award, such as an injunction (which would not be within its scope).  
40 Second, the judgment could relate to both a subject matter within the scope of the Act and one  
41 that is excluded. UFCMJRA Section 3 addresses this issue by providing that the Act applies to a  
42 foreign country judgment “*to the extent* that the judgment” is within its scope and that the Act  
43 does not apply “*to the extent*” that a judgment falls within one of the excluded subject matters.  
44 Comments 2 and 5 to UFCMJRA explain that this language means that in both these instances  
45 the UFCMJRA applies to the portion of the judgment within its scope. Section 3 of this Act also

1 uses this “to the extent” language for the same purpose. In addition, subsections 3(b) and (c)  
2 make it clear that the portion of a mixed judgment within the scope of the Act can be registered.  
3 Subsection (b)(2(C) of this section requires the person seeking registration of a mixed judgment  
4 to expressly indicate the portion of the judgment that may be registered under the Act.  
5

6 6. At its November 2-3, 2018 Drafting Committee Meeting, the Joint Drafting Committee  
7 decided that the statement required by subsection 4(b)(2) must be executed by the person seeking  
8 recognition by registration or that person’s attorney. The Joint Drafting Committee decided to  
9 use the word “executed” rather than the word “signed,” as the ULC uniform definition of “sign”  
10 contemplates electronic signatures, and thus if used in this Act inadvertently could be viewed as  
11 addressing the issue of the extent to which a court accepts electronic filings, a question on which  
12 this Act takes no position.  
13

14 7. Subsection (b)(4) requires payment of a registration fee to the Clerk of Court. It is based on  
15 Section 5 of the ULC Revised Uniform Enforcement of Foreign Judgments Act (dealing with  
16 registration of sister state judgments). Payment of this registration fee is a requirement for  
17 issuance of a docket number and entry in the docket by the Clerk of Court under subsection (c).  
18 The bracketed alternatives in subsection (b)(4) recognize that various states deal with the  
19 question of fees in different ways. While some states include fees in the statute to which they  
20 relate, some states combine fees in centralized statutes and other states may establish fees by  
21 administrative rule. A Legislative Note will provide guidance on this issue in the final draft of  
22 the Act.  
23

24 8. In addition to payment of the registration fee, subsection (c) makes filing of all the documents  
25 listed in subsection (b) a requirement for the Clerk of Court to register the judgment, issue a  
26 docket number (required to give notice to the person against whom registration of the judgment  
27 is sought) and enter the registration in the Court’s registration docket. The term “registration” is  
28 bracketed in this subsection, as well as in Section 6 in recognition that different states may use  
29 different terminology to describe the docket where registrations will be filed. A Legislative Note  
30 will provide guidance on this issue in the final draft of the Act.  
31

32 9. Section 4 does not require that the information required for registration be provided in any  
33 particular form. The Joint Drafting Committee has briefly considered the possibility of  
34 providing a form that could be used on a voluntary basis as a means of providing guidance and  
35 encouraging uniformity. The Joint Drafting Committee will consider this issue further at its next  
36 Drafting Committee Meeting.  
37

## 38 **SECTION 5. EFFECT OF REGISTRATION.**

39 (a) Subject to subsection (b), a Canadian judgment registered under Section 4 has the  
40 same effect as provided in [cite to Section 7 of the Uniform Foreign-Country Money Judgments  
41 Recognition Act] for a judgment determined by a court to be entitled to recognition.

1 (b) A Canadian judgment registered under Section 4 may not be enforced by sale or other  
2 disposition of property, or by any act that would deprive the person against whom the judgment  
3 is registered of use of the person's property, until the 31<sup>st</sup> day after service under Section 6 of  
4 notice of registration. The court for good cause may provide for a shorter or longer time. This  
5 subsection does not preclude the use of a remedy available under law of this state other than this  
6 [act] to prevent dissipation, disposition, or removal of property.

### 7 **Reporter's Notes**

8  
9 1. The Joint Drafting Committee reached consensus that the effect of registration should be that  
10 the judgment is considered recognized, subject to a grace period during which the judgment  
11 could not be enforced (at least to some extent), in order to provide the person against whom the  
12 judgment has been registered an opportunity to raise any defenses that would cause recognition  
13 to be set aside. Subsection (a) states the basic rule that a registered judgment is given the same  
14 effect as a judgment that has been determined by a court to be entitled to recognition under  
15 Section 7 of the UFCMJRA. Thus, once registered, (and subject to the grace period provided in  
16 subsection (b)), a Canadian judgment is (1) conclusive between the parties to the same extent as  
17 the judgment of a sister-state entitled to full faith and credit and (2) enforceable in the same  
18 manner and to the same extent as a judgment rendered in the recognizing state. *See* UFCMJRA  
19 §7. Section 14 of the Canadian UEFJA contains similar provisions, providing that, "[o]n  
20 registration, a foreign judgment is enforceable as if it were a judgment of the enforcing court,"  
21 and the enforcing court "has the same jurisdiction and control over a registered foreign judgment  
22 as it has over its own judgments and may order enforcement in respect of one or more of its  
23 parts."  
24

25 2. Subsection (b) provides a grace period during which a person against whom a judgment has  
26 been registered can take action to have the registration set aside before being subject to the  
27 consequences of registration. Section 14(3) of the Canadian UEFJA contains an analogous  
28 provision, which states that a registered judgment "may not be enforced by the sale or other  
29 disposition of any property of the judgment debtor before the expiry of 30 days after the  
30 judgment debtor has received notice of the proceedings to register the foreign judgment, or any  
31 longer period that the enforcing court may allow."  
32

33 3. Subsection (b) has been the subject of much thought and discussion by the Joint Drafting  
34 Committee. The discussion has centered around finding the right balance between protection of  
35 the judgment debtor who may have a valid defense to recognition of the judgment and the ability  
36 of the judgment creditor to effectively and efficiently enforce its judgment, including avoiding  
37 dissipation of assets during the grace period. Subsection (b) strikes this balance by, first,  
38 providing that the judgment creditor may not enforce the registered judgment during the grace  
39 period through any means that would deprive the judgment debtor of use of its property. This is

1 a broader prohibition on enforcement actions than that in the Canadian UEFJA, Section 14(3),  
2 which only prohibits enforcement through sale or other disposition of the property. The Joint  
3 Drafting Committee believed that expansion of the protection afforded the judgment debtor to  
4 include actions that would deprive that person of use of the property was warranted because  
5 actions short of disposition, such as garnishment or freezing of bank accounts, could cause  
6 potentially irreversible harm to the judgment debtor. Subsection (b), however, also provides  
7 several protections of the judgment creditor's interests. The prohibition on enforcement actions  
8 does not prevent all actions related to enforcement, but only those that would deprive the  
9 judgment debtor of use of the property. Thus, it clearly does not prohibit discovery seeking  
10 information about property that may be available to satisfy the judgment. Nor does it prohibit  
11 enforcement activity, such as placing a lien on the judgment debtor's property, as long as the  
12 action does not prevent the judgment debtor's use of the property. Thus, the judgment creditor is  
13 not prohibited from establishing its priority to the assets during the thirty-day period vis a vis  
14 other creditors. Subsection (b) also provides that the court may shorten the grace period (as well  
15 as lengthen it) for good cause shown. (Section 14(3) of the Canadian UEFJA only allows  
16 lengthening of the grace period by the court.) Finally, subsection (b) is subject to other laws of  
17 the state that provide a judgment creditor with remedies against dissipation, disposition or  
18 removal of assets potentially available to satisfy the judgment. In developing the balance  
19 provided by subsection (b), the Joint Drafting Committee has kept in mind the fact that remedies  
20 available for enforcement of judgments and protection of assets vary among the states. The Joint  
21 Drafting Committee, however, is confident that the basic structure of these laws in the various  
22 states is sufficiently similar that the balance struck in subsection (b) will be an appropriate one in  
23 all the states.

24  
25

## **SECTION 6. NOTICE OF REGISTRATION.**

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

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

31 (c) Notice under this section must include:

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

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

34 (3) the name and address of:

35 (A) the person registering the judgment and

1 (B) the person’s attorney, if any; and

2 (4) a copy of the registration, including the documents required under Section

3 4(b).

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

5 **Reporter’s Notes**

6  
7 1. There was some discussion at the October 27-28, 2017 Committee Meeting as to whether  
8 notice of registration should be given prior to registration of the judgment or could be provided  
9 after registration. The requirement in Section 12(4)(b) of the Canadian UEFJA that a copy of the  
10 notice be provided as part of the registration seems to contemplate that notice will be given prior  
11 to registration; however, there was some doubt expressed as to whether this is indeed the case.  
12 After some discussion, the consensus of the Joint Drafting Committee was that notice could be  
13 given after registration. Subsection (a) reflects that consensus. The 30-day non-enforcement  
14 period, however, runs from the date of service of notice, not from the date of registration, and  
15 thus prompt and adequate notice remains critical to the ultimate enforcement of the foreign  
16 judgment.

17  
18 2. Registering a Canadian foreign judgment is an alternative to the commencement of a law suit  
19 for its recognition. Nevertheless, some of the rules that apply to commencement of a law suit  
20 also apply in the registration context. Subsection (b) provides that the manner in which notice is  
21 to be given is the same as that provided by the rules governing service of summons and  
22 complaint in an action for recognition of a foreign-country judgment. *Cf.* Reciprocal  
23 Enforcement of Judgments Act of the Province of Alberta, §6(1)(a) (notice of registration to be  
24 served “in the same manner as a statement of claim is required to be served”). The subsection  
25 (b) reference to other law for the specific methodology by which “notice” is given includes not  
26 only the rules governing the method of notice, but also those concerning other issues, such as the  
27 timing of notice.

28  
29 3. The Joint Drafting Committee considered whether a less stringent notice requirement – for  
30 example, service of notice by registered mail – would be adequate. Keeping in mind the  
31 Committee’s charge to harmonize the Act with Canadian law, a subcommittee composed of the  
32 Canadian members of the Joint Drafting Committee was asked to determine the manner of  
33 service in Canadian jurisdictions under both the Reciprocal Enforcement of Judgment Acts still  
34 in force in a number of Canadian provinces and the more modern Canadian UEFJA. That report  
35 concluded that registration under both the Reciprocal Enforcement Acts and the Canadian  
36 UEFJA requires personal service. The rationales given for requiring personal service in Canada  
37 are that registration is the commencement of a new action rather than a corollary to an existing  
38 action in the enforcing jurisdiction, that because the judgment debtor can object to registration  
39 and enforcement, the judgment debtor should receive personal notice of the intended action, and  
40 that personal service is the best way to establish when the timelines in the registration process  
41 commence. In light of the rationales behind the Canadian personal service requirement and the

1 desire to maintain parity between the Canadian and U.S. registration procedures, the Joint  
2 Drafting Committee decided to retain the personal service requirement in subsection (b).

3  
4 4. The term “complaint” is bracketed in subsection 6(b) in recognition that some states may use  
5 a different term to describe the initial pleading filed to commence a civil cause of action. The  
6 term “registration” is bracketed in subsection 6(c) in recognition that states may use different  
7 terms to describe the docket in which the registration will be filed. The term “clerk” is bracketed  
8 in recognition that each state will need to indicate the official to handle the registration process in  
9 that state. Legislative Notes to provide direction on these issues will be included in the final draft  
10 of the Act.

11  
12 **SECTION 7. [PETITION] TO SET ASIDE REGISTRATION.**

13 (a) Not later than 30 days after being served under Section 6 with notice of registration of  
14 a Canadian judgment, the person against whom the judgment was registered may [petition] the  
15 court to set aside the registration. The court for good cause may provide for a shorter or longer  
16 time.

17 (b) A person against whom a Canadian judgment was registered under Section 4 may  
18 assert as a ground to set aside the registration 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 subsection (a) does not itself stay enforcement of the Canadian  
24 judgment.

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

27 (e) If the court grants a [petition] under subsection (a) on a ground under subsection  
28 (b)(1), the court shall also issue a [judgment] denying recognition of the Canadian judgment. A

1 [judgment] issued under this subsection has the same effect as a [judgment] denying recognition  
2 to a judgment on the same ground under the [cite to the Uniform Foreign-Country Money  
3 Judgments Recognition Act].

#### 4 **Reporter's Notes**

5  
6 1. A primary consequence of a registration process for recognition of Canadian judgments is that  
7 it shifts the burden of invoking judicial scrutiny of the foreign judgment from the person seeking  
8 recognition of the judgment to the person seeking to avoid recognition. This section provides the  
9 procedure by which the person seeking to avoid recognition can invoke that judicial scrutiny. It  
10 provides that the person seeking to avoid recognition through registration may file a petition with  
11 the court within 30 days of service of notice of registration, stating its objections to recognition  
12 of the judgment by registration. The effect of filing a petition to set aside the registration is to  
13 invoke the judicial process for ultimate determination of whether the Canadian judgment will be  
14 registered, and, if the basis for setting aside the registration is that the judgment is not entitled to  
15 recognition under the UFCMJRA, for determination of whether the judgment is entitled to be  
16 recognized and enforced under the UFCMJRA as well. See subsection (e) and Note 8 below.  
17 From that point, the case will move forward as a matter to be determined by the court, much as  
18 though the case initially had been filed under Section 6 of the UFCMJRA.

19  
20 2. Subsection (b) divides the grounds upon which a registration may be set aside into two  
21 categories. Under subsection (b)(1), a judgment debtor may assert as a basis for setting aside the  
22 registration any ground that could be asserted to deny recognition to the Canadian judgment  
23 under the UFCMJRA. Given the “plug in” relationship of this Act to the UFCMJRA, subsection  
24 (b)(1) references the grounds for refusing recognition under the UFCMJRA rather than restating  
25 them. The defenses to recognition of a foreign country judgment under the UFCMJRA are  
26 contained in UFCMJRA Section 4. Under this section, those defenses also are available to deny  
27 registration to the judgment. In addition to the UFCMJRA Section 4 defenses to recognition  
28 (which provide the only substantive grounds for denying recognition), there are other grounds for  
29 denying recognition under the UFCMJRA, and those grounds also are available to the person  
30 against whom the Canadian judgment has been registered under subsection (b)(1). For example,  
31 another ground for denying recognition of a judgment under the UFCMJRA is that the judgment  
32 is not one to which the UFCMJRA applies under UFCMJRA Section 3. Section 3 of this Act  
33 provides that this Act applies to a Canadian judgment to the extent the judgment is within the  
34 scope of the UFCMJRA; therefore, if a judgment does not come within the scope of UFCMJRA  
35 Section 3, it also cannot be registered under this Act. (Canadian judgments not within the scope  
36 of the UFCMJRA, and thus not within the scope of this Act, of course, still can be recognized by  
37 a court under principles of comity or other applicable law. See UFCMJRA Section 11.) A third  
38 ground for denying recognition to a judgment under the UFCMJRA is that the action is barred by  
39 the statute of limitations found in UFCMJRA Section 9. This ground also would be available  
40 under this section as a basis to deny registration of the judgment. As these examples illustrate  
41 the intent of subsection (b)(1) is to allow the person against whom registration is sought to raise  
42 as grounds for denying registration any grounds that would be available in this State as a basis

1 for denying recognition to the judgment under the UFCMJRA.

2  
3 Subsection (b)(2) provides that a judgment debtor also may seek to have the registration set aside  
4 based on the failure of the person registering the judgment to comply with the requirements for  
5 registration under this Act. See Sections 4 and 6. While the subsection (b)(1) grounds for setting  
6 aside the registration relate to whether the Canadian judgment should be recognized at all (at  
7 least under the UFCMJRA), the subsection (b)(2) grounds for setting aside the registration relate  
8 only to whether the person registering the judgment properly followed the registration process.  
9 For example, Section 4(a) requires that the person seeking recognition of a Canadian judgment  
10 through registration must do so for the purpose of enforcing the judgment. If recognition is  
11 sought solely for the preclusive effect of the judgment, then the registration procedure cannot be  
12 used. The judgment still may be entitled to recognition; the registration procedure simply is not  
13 the proper procedure by which to obtain that recognition.

14  
15 3. As discussed in Note 2, the UFCMJRA Section 4 defenses are the only *defenses* that may be  
16 raised to recognition. In particular, U.S. courts consistently have held that a person opposing  
17 recognition may not seek to re-litigate the merits of the underlying case that lead to the judgment  
18 for which recognition is sought. Similarly, a person seeking to set aside registration of a  
19 Canadian judgment may not seek to relitigate the merits of the underlying case as a basis for  
20 denying registration.

21  
22 4. This section is based in part on Section 6 of the Reciprocal Enforcement of Judgments Act of  
23 the Province of Alberta.

24  
25 5. An issue considered at the March 9-10, 2018 Drafting Committee Meeting was what is the  
26 effect of filing a petition to set aside the registration on the ability of the person seeking to  
27 enforce the judgment to pursue enforcement? Section 5(b) provides a thirty-day grace period  
28 after service of notice in which certain enforcement actions may not be taken. The thirty-day  
29 period in Section 7 in which to object to the registration normally will coincide with the Section  
30 5 period, although both are subject to being altered by the court. Does filing a motion to set  
31 aside the effect of the registration automatically stay any enforcement action or does the person  
32 seeking to set aside the registration also have to request a stay of enforcement while the motion  
33 is being determined?

34  
35 At its November 2-3, 2018 Drafting Committee Meeting, the Joint Drafting Committee decided  
36 that filing a petition to set aside the registration should not result in an automatic stay of  
37 enforcement activities. Instead, the person seeking to set aside the registration also must file a  
38 motion with the court seeking a stay of enforcement activities while the court is determining the  
39 merits of its petition to set aside the registration. The Joint Drafting Committee also decided that  
40 a section should be added to this Act to authorize granting a stay. Accordingly, subsection 7(c)  
41 states that filing a petition to set aside the effect of the registration does not automatically stay  
42 enforcement of the judgment. New Section 8 addresses the grant of a stay of enforcement.

43  
44 6. The term “petition” is bracketed in recognition that some states may choose to use a different  
45 term, such as “motion” to describe the pleading filed to set aside a registration. A Legislative

1 Note will provide guidance on this issue in the final draft of the Act.

2  
3 7. Subsection (d) states the effect of a court determination that the registration should be set  
4 aside – the registration is vacated, and any enforcement actions that have been taken to collect  
5 the registered judgment are void.

6  
7 8. Subsection (e) provides that, if a registration is set aside on the basis that the Canadian  
8 judgment is not entitled to recognition on a ground upon which recognition would be denied  
9 under the UFCMJRA, then, in addition to setting aside the registration, the court shall also issue  
10 a judgment denying recognition to the Canadian judgment. As discussed in Note 2 above, the  
11 grounds for setting aside registration in subsection (b)(1) are the same as the grounds for denying  
12 recognition to a Canadian judgment under the UFCMJRA. Therefore, if the court finds that one  
13 of those grounds exists, the result is not only that the registration is set aside, but also that  
14 recognition of the Canadian judgment is denied. Subsection (e) further provides that a judgment  
15 denying recognition on a subsection (b)(1) ground has the same effect as a judgment denying  
16 recognition on the same ground under the UFCMJRA.

17  
18 **SECTION 8. STAY OF ENFORCEMENT PROCEEDINGS.** A person that files a  
19 [petition] to set aside registration of a Canadian judgment under Section 7(a) may request the  
20 court to stay enforcement of the judgment pending the determination of the [petition]. The court  
21 may grant the stay [for good cause] [on any ground on which enforcement of a judgment of a  
22 court of this state would be stayed]. The court may require the person to provide [security for  
23 satisfaction of the judgment] [the same security for satisfaction of the judgment that is required  
24 to stay enforcement of a judgment of this state].

### 25 **Reporter's Notes**

26  
27 1. Section 7(c) provides that filing a petition to set aside a registration does not of itself stay  
28 enforcement of the judgment. At its November 2-3, 2018 Drafting Committee Meeting, the  
29 Joint Drafting Committee decided that, in light of this rule, a section should be added authorizing  
30 the court to grant a stay.

31  
32 2. As indicated by the brackets in this section, the Joint Drafting Committee has not yet  
33 considered the standards upon which a stay will be granted. Should the court be authorized to  
34 grant a stay for “good cause,” or should it be provided more guidance? The bracketed language  
35 providing that the standard will be the same as staying enforcement of a judgment of the state is  
36 based on the ULC Revised Uniform Enforcement of Foreign Judgments Act (1964), which deals  
37 with registration of sister-state judgments. Should the court be authorized (directed?) to provide  
38 adequate security in connection with granting the stay? How much guidance should the court be

1 given on this issue? Is “adequate security” an appropriate standard, or should the court be given  
2 more guidance. The bracketed language providing for the same security as that required with  
3 regard to enforcement of a judgment of the state is based on the ULC Revised Uniform  
4 Enforcement of Foreign Judgments Act (1964).

5  
6 **SECTION 9. RELATIONSHIP TO UNIFORM FOREIGN-COUNTRY MONEY**

7 **JUDGMENTS RECOGNITION ACT.**

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

11 (b) This [act] does not prevent a person from seeking recognition of a Canadian judgment  
12 under [cite to Section 6 of the Uniform Foreign-Country Money Judgment Recognition Act]  
13 instead of by registration under this [act].

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

17 (d) If the court grants a [petition] to set aside a registration solely on a ground under  
18 Section 7(b)(2), the person seeking registration may:

19 (A) if the defect in the registration is one that can be cured, file a new registration  
20 under Section 4, or

21 (B) seek recognition of the judgment under [cite to Section 6 of the Uniform  
22 Foreign-Country Money Judgment Recognition Act].

23 **Reporter’s Notes**

24  
25 1. Subsection (a) states the relationship between this Act and the UFCMJRA. The conceptual  
26 approach in drafting this Act is to create a “module” that will “plug in” to the provisions of the  
27 UFCMJRA. This approach means that the provisions contained in the UFCMJRA need not be  
28 restated in this Act, as those provisions will apply equally to this Act, with the exception of a

1 provision in this Act that states a different rule from the comparable rule in the UFCMJRA. The  
2 obvious (and, potentially, only) example of the latter situation is that, unlike Section 6 of the  
3 UFCMJRA, this Act does not require that the person seeking recognition of a Canadian  
4 judgment file a court action. In providing for application of the rules of the UFCMJRA, the  
5 intent of this section is that all of those rules (other than Section 6) will apply, including not only  
6 substantive rules, but also other provisions, such as those dealing with allocation of burdens of  
7 proof and limitation of actions.  
8

9 2. This Act is intended to provide an alternative procedure to the filing of an action under  
10 UFCMJRA Section 6 with regard to Canadian judgments. It does not prevent a person seeking  
11 recognition of a Canadian judgment from choosing to file an action seeking recognition as  
12 provided in UFCMJRA Section 6 rather than using this Act. The import of Section 9(b) is that a  
13 person may seek recognition of a Canadian judgment either by registering it under this Act or by  
14 a court action under Section 6 of the UFCMJRA. Compare Section 6 of the ULC Revised  
15 Uniform Enforcement of Foreign Judgments Act, dealing with registration of sister state  
16 judgments – “[t]he right of a judgment creditor to bring an action to enforce his judgment instead  
17 of proceeding under this Act remains unimpaired.”  
18

19 3. Subsection 9(c) states the corollary to subsection (b) – a person must choose one or the other  
20 means of seeking recognition of a Canadian judgment; both procedures may not be pursued at  
21 the same time with regard to the same judgment, or, in the case of a mixed judgment, the same  
22 portion of a judgment, in the same jurisdiction. To provide otherwise would lead to inefficiency  
23 and waste of judicial resources. Obviously, subsection (c) does not prevent a creditor from using  
24 different means (registration or filing an action for recognition) in different states.  
25

26 4. Subsection 9(c) is subject to the limited exception found in subsection 9(d). Under subsection  
27 9(d), when a registration is set aside because of a failure to comply with a requirement for  
28 registration under this Act (*see* Section 7(b)(2)), the person whose registration was set aside is  
29 not precluded from further efforts to obtain recognition of the judgment. Instead, subsection  
30 9(d), gives the judgment creditor a choice at that point -- it may either file a new registration  
31 (assuming the defect in the previous registration is one that can be cured) or file an action under  
32 Section 6 of the UFCMJRA seeking recognition of the Canadian judgment.  
33

34 5. Section 3 of this Act provides that the Act applies to a Canadian judgment that is within the  
35 scope of the UFCMJRA. Thus, the registration procedure under this Act is available with regard  
36 to any Canadian judgment that could be considered for recognition through an action filed under  
37 the UFCMJRA, if the requirements for registration in Section 4 of this Act are met (including the  
38 Section 4(a) requirement that recognition of the judgment through registration is being sought for  
39 the purpose of enforcing the judgment). The corollary is that judgments not within the scope of  
40 the UFCMJRA are not within the scope of this Act. Those judgments continue to be recognized  
41 and enforced as they have been prior to this Act. Section 11 of the UFCMJRA states with regard  
42 to judgments not within its scope (and thus not within the scope of this Act) that they may be  
43 recognized “under principles of comity or otherwise.”  
44

