

UNIFORM REGISTRATION OF CANADIAN MONEY JUDGMENTS ACT

drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

ANNUAL CONFERENCE
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WITH PREFATORY NOTE AND COMMENTS

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By
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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UNIFORM REGISTRATION OF CANADIAN MONEY JUDGMENTS ACT

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UNIFORM REGISTRATION OF CANADIAN MONEY JUDGMENTS ACT

Prefatory Note

I. Introduction.

This Act creates for the first time in the United States a registration procedure designed for the recognition and enforcement of a foreign-country money judgment – specifically, a Canadian money judgment that is within the scope of the Uniform Foreign-Country Money Judgments Recognition Act (2005) (UFCMJRA). The Act has two goals: (1) to establish a registration procedure for the recognition and enforcement of Canadian money judgments as a streamlined alternative to the procedure found in Section 6 of the UFCMJRA (which requires that recognition be sought through a judicial proceeding); and (2) to harmonize the procedures for registration in the U.S. states with those in effect in the Canadian provinces and territories to the extent feasible. The Act has been drafted to integrate into the UFCMJRA and relies on the rules of the UFCMJRA with regard to recognition of foreign-country judgments, other than the UFCMJRA requirement that an action be filed. The Act also establishes a registration procedure that is similar, to the extent practicable, to the Canadian registration procedure regarding foreign-country judgments. Because the Act relies on the recognition rules of the UFCMJRA, the Act is intended for adoption in states that either already have enacted the UFCMJRA or are enacting the Act as a companion act in connection with enactment of the UFCMJRA. The Act is not intended for enactment absent either an existing or concurrently enacted UFCMJRA.

II. Background

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

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

The requirement of a full scale judicial proceeding with regard to a sister-state judgment has been replaced in almost all U.S. jurisdictions by a registration procedure under the Revised Uniform Enforcement of Foreign Judgments Act (1964). A registration procedure also is available in all U.S. jurisdictions for child custody and child support orders (including foreign-country orders) under the Uniform Child Custody Jurisdiction and Enforcement Act (1997) and the Uniform Interstate Family Support Act (2008), respectively. Filing an action on the foreign judgment, however, remains the way in which foreign-country money judgments are recognized

and enforced in the U.S. in almost all instances. For example, Section 6 of the UFCMJRA provides that “the issue of recognition shall be raised by filing an action seeking recognition of the foreign-country judgment.”

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

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

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

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

The balance between the benefits and costs of a registration procedure is significantly different, however, in the context of recognition and enforcement of foreign-country judgments. Unlike the limited grounds for denying full faith and credit to a sister-state judgment, [the UFCMJRA] provides a number of grounds upon which recognition of a foreign-country judgment may be denied. Determination of whether these grounds apply requires the forum court to look behind the foreign-country judgment to evaluate the law and judicial system under which the foreign-country judgment was rendered. The existence of these grounds for nonrecognition reflects the fact there is less expectation

that foreign-country courts will follow procedures comporting with U.S. notions of fundamental fairness and jurisdiction or that those courts will apply laws viewed as substantively tolerable by U.S. standards than there is with regard to sister-state courts. In some situations, there also may be suspicions of corruption or fraud in the foreign-country proceedings. These differences between sister-state judgments and foreign-country judgments provide a justification for requiring judicial involvement in the decision whether to recognize a foreign-country judgment in all cases in which the issue is raised. Although the threshold for establishing a foreign-country judgment is not entitled to recognition ... is high, there is a sufficiently greater likelihood that significant recognition issues will be raised so as to require a judicial proceeding.

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

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

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

When balancing the benefits and costs of a registration procedure in the context of recognition and enforcement of a Canadian money judgment, the above-referenced factors support a different result than that reached under the UFCMJRA in the context of foreign-country money judgments coming from all jurisdictions. Given the strong presumption of fairness and competence that attaches to a Canadian judgment, and the concomitant likelihood that in most instances no reason to deny recognition will exist, the interest of the person against whom recognition and enforcement is sought in having an adequate opportunity to raise any issues with regard to the judgment can adequately be protected by a requirement of personal service of notice of registration, a period during which potentially dispositive enforcement activities are prohibited, and a robust procedure for invoking judicial scrutiny of the judgment after registration. In light of these protections, which are critical components of this Act, the benefits of enhanced efficiency and reduced time and expense in respect of recognition and enforcement inuring to both the judgment holder and the courts warrant the use of a registration procedure with regard to Canadian money judgments.

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

IV. Summary of the Act.

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

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

The person registering the judgment must serve notice of the registration on the person against whom the judgment was registered in the same manner as a summons and complaint

would be served if an action were filed under the UFCMJRA. The 30-day period during which certain enforcement acts are prohibited is measured from the date on which notice is served. The person against whom the Canadian money judgment is registered may file a petition with the court to vacate the registration no later than 30 days after being served with notice of the registration. The petition may assert (1) any ground upon which recognition of a foreign-country judgment could be denied under the UFCMJRA or (2) a failure to comply with the registration requirements under the Act. The court may, for cause, shorten or lengthen the period for filing the petition.

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

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

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

UNIFORM REGISTRATION OF CANADIAN MONEY JUDGMENTS ACT

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

Legislative Note: Because this act relies on the rules of the Uniform Foreign-Country Money Judgments Recognition Act, this act should be enacted only in a state that has enacted that Act or is enacting that Act concurrently with enactment of this act.

Comment

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

SECTION 2. DEFINITIONS. In this [act]:

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

“Canadian” has a corresponding meaning.

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

Comment

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

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

SECTION 3. APPLICABILITY.

(a) This [act] applies to a Canadian judgment to the extent the judgment is within the

scope of [cite to Uniform Foreign-Country Money Judgments Recognition Act Section 3], if recognition of the judgment is sought to enforce the judgment.

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

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

Comment

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

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

3. The Canadian UEFJA contains exclusions for (1) recovery of taxes; (2) maintenance or support; and (3) recovery of monetary fines or penalties that are sufficiently similar to those in Section 3 of the UFCMJRA as to not affect harmonization. The Canadian UEFJA also contains three exclusions not found in the UFCMJRA – foreign judgments: (1) “arising out of bankruptcy and insolvency proceedings”; (2) “that recognize the judgment of another foreign State;” and (3) that were “rendered in proceedings commenced before the coming into force of [the Canadian UEFJA]”. There is no need to address the bankruptcy exclusion in this Act because U.S. bankruptcy law requires that the type of judgment covered by this exclusion – a foreign money judgment against a debtor in bankruptcy or its estate – be filed in the bankruptcy proceedings rather than under the UFCMJRA. The exclusion for a judgment recognizing the judgment of another foreign State is dealt with in this Act by excluding that type of judgment from the definition of “Canadian judgment” in Section 2(2). The third exclusion is addressed in Section

11 of this Act, which provides that the Act applies only to proceedings commenced on or after the effective date of the Act.

4. In addition to limiting the type of judgments to which this Act applies to those within the scope of the UFCMJRA, Section 3(a) provides that the Act applies only “if recognition of the judgment is sought to enforce the judgment.” This latter limit, which is not found in the UFCMJRA, is intended to exclude from the Act situations in which recognition is sought solely for the purpose of obtaining the preclusive effect of the Canadian money judgment. This issue is discussed further in Comments 1 and 2 to Section 4.

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

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

SECTION 4. REGISTRATION OF CANADIAN JUDGMENT.

(a) A person seeking recognition of a Canadian judgment described in Section 3 to enforce the judgment may register the judgment in the office of the [clerk] of a court in which an action for recognition of the judgment could be filed under [cite to Uniform Foreign-Country Money Judgments Recognition Act Section 6].

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

(1) a copy of the Canadian judgment authenticated [under [cite to state’s law on

authentication of a foreign country judgment]] [in the same manner as a copy of a foreign judgment is authenticated in an action under [cite to Uniform Foreign-Country Money Judgments Recognition Act Section 6]] as an accurate copy by the court that entered the judgment;

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

(3) if the person registering the judgment is not the person in whose favor the judgment was rendered, a statement describing the interest the person registering the judgment has in the judgment which entitles the person to seek its recognition and enforcement;

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

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

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

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

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

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

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

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

(9) a statement that:

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

(B) the judgment or part of the judgment being registered is within the scope of this [act]; and

(C) if a part of the judgment is being registered, the amounts stated in the registration under paragraphs (6), (7), and (8) relate to the part;

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

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

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

(d) A registration substantially in the following form complies with the registration requirements under subsection (b) if the registration includes the attachments specified in the form:

REGISTRATION OF CANADIAN MONEY JUDGMENT

Complete and file this form, together with the documents required by Part V of this form, with the [Clerk] of Court. When stating an amount of money, identify the currency in which the amount is stated.

PART I. IDENTIFICATION OF CANADIAN JUDGMENT

Canadian Court Rendering the Judgment: _____

Case/Docket Number in Canadian Court: _____

Name of Plaintiff(s): _____

Name of Defendant(s): _____

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

_____. The judgment includes an award for the payment of
[Province or Territory]

money in favor of _____ in the amount of _____.

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

PART II. IDENTIFICATION OF PERSON REGISTERING JUDGMENT AND PERSON AGAINST WHOM JUDGMENT IS BEING REGISTERED

Provide the following information for all persons seeking to register the judgment under this registration and all persons against whom the judgment is being registered under this registration.

Name of Person(s) Registering Judgment: _____

If a person registering the judgment is not the person in whose favor the judgment was rendered, describe the interest the person registering the judgment has in the judgment which entitles the person to seek its recognition and enforcement: _____

Address of Person(s) Registering Judgment: _____

Additional Contact Information for Person(s) Registering Judgment (Optional):

Telephone Number: _____ FAX Number: _____

Email Address: _____

Name of Attorney for Person(s) Registering Judgment, if any: _____

Address: _____

Telephone Number: _____ FAX Number: _____

Email Address: _____

Name of Person(s) Against Whom Judgment is Being Registered: _____

Address of Person(s) Against Whom Judgment is Being Registered:

_____ (provide the most recent address known)

Additional Contact Information for Person(s) Against Whom Judgment is Being Registered

(Optional) (provide most recent information known):

Telephone Number: _____ FAX Number: _____

Email Address: _____

PART III. CALCULATION OF AMOUNT FOR WHICH ENFORCEMENT IS SOUGHT

Identify the currency or currencies in which each amount is stated.

The amount of the Canadian judgment or part of the judgment being registered is

_____.

The amount of interest accrued as of the date of registration on the part of the judgment being registered is _____

The applicable rate of interest is _____

The date when interest began to accrue is _____

The part of the judgment to which the interest applies is _____.

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

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

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

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

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

PART IV. STATEMENT OF PERSON REGISTERING JUDGMENT

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

1. The Canadian judgment is final, conclusive, and enforceable under the law of the Canadian jurisdiction in which it was rendered.
2. The Canadian judgment or part of the judgment being registered is within the scope of the [cite to Uniform Registration of Canadian Money Judgments Act].
3. If only a part of the Canadian judgment is being registered, the amounts stated in Part III of this form relate to that part.

PART V. ITEMS REQUIRED TO BE INCLUDED WITH REGISTRATION

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

_____ A copy of the Canadian judgment authenticated [under [cite to state's rules on authentication of a foreign judgment]] [in the same manner a copy of a foreign judgment is authenticated in an action under [cite to Uniform Foreign-Country Money Judgments

Recognition Act Section 6]] as an accurate copy by the Canadian court that entered the judgment.

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

_____ [A registration fee in the amount of \$[_____]] [The registration fee stated in [cite to applicable statute or administrative rule]].

I declare that the information provided on this form is true and correct to the best of my knowledge and belief.

Submitted by: _____
Signature of [Person Registering Judgment]
[Attorney for Person Registering Judgment]

[specify whether signer is the person registering the judgment or that person's attorney]

Date of submission: _____

Legislative Note: "Clerk" is bracketed in this section. The state should insert the appropriate term in the state for the court officer.

Subsection (b)(1) provides alternative bracketed language regarding authentication of a copy of the Canadian judgment being registered. A state that has a statute or rule regarding the method of authenticating a foreign country judgment should refer to that statute or rule as indicated by the first set of brackets. Other states should opt for the second set of brackets.

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

"Registration" is bracketed in subsection (c). The state should insert the appropriate term in the state for the docket in which the registration will be filed.

Part V of the registration form provides alternative bracketed language regarding the registration fee. A state that combines fees in a centralized statute should refer to that statute as indicated by the second set of brackets. If a state establishes fees by administrative rule, the

reference should be to the administrative rule. A state that sets the registration fee in this act should provide the amount of the registration fee in the form by opting for the first set of brackets.

Comment

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

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

3. Subsection (b)(1) is based on Canadian UEFJA Section 12(4)(a), which provides that the appropriate authentication is that of the court of origin.

4. While the authentication under subsection (b)(1) is that of the court of origin, the method of authentication is determined by this state as the forum asked to recognize the judgment. The procedure contemplated is that required in this state for the authentication of a foreign-country judgment in connection with an action under UFCMJRA Section 6.

5. Subsection (b)(2) requires basic information identifying the person registering the Canadian judgment – that is, the person in whose favor the judgment was rendered or a successor in interest to that person. If the person registering the judgment is not the original party in whose

favor the judgment was rendered, subsection (b)(3) requires the person registering the judgment to explain why it is entitled to have the judgment recognized and enforced.

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

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

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

9. Subsection (b)(7) requires information about the amount of post-judgment costs, expenses, and attorney's fees included in the amount for which enforcement of the judgment is sought. The amounts included are "as of the date of registration," which would include any amount up to the time of filing the registration. Unlike the amounts included under subsection (b)(6), post-judgment amounts claimed are not likely to have been approved by a court. As with regard to other amounts stated in the registration, however, the burden is on the person against whom the judgment is being registered to object to these amounts, if the person believes they are not accurate. *See* Section 7(b)(2).

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

11. This Act does not address the question of the conversion rule to be used with regard to the amounts subsection (b) requires to be stated. In this regard, this Act follows the UFCMJRA, which also leaves this issue to other law of the state. In contrast, compare Canadian UEFJA Section 13, which explicitly adopts the date of payment conversion rule. The date of payment rule also is the conversion rule adopted in the Uniform Foreign-Money Claims Act and the prevalent rule in many other countries. The intent of this Act is that the conversion rule applied will be the same conversion rule as would be used in an action under UFCMJRA Section 6 in this state. Depending on the conversion rule used, the amounts under subsection (b) may in some instances be stated in more than one currency.

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

13. Subsection (b)(10) requires a certified translation of the judgment into English, if the original judgment is not in English. What constitutes an acceptable certification is left to other law of the state. The intent is that what would constitute an acceptable certification of a translation of a Canadian judgment in an action for recognition under UFCMJRA Section 6 also would be an acceptable certification under this Act.

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

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

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

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

SECTION 5. EFFECT OF REGISTRATION.

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

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

***Legislative Note:** The state should select between the bracketed terms “garnishment” and “trustee process” depending on how this type of enforcement action is described in state law. If the state uses another term to describe this type of enforcement action, the state should insert that term instead of “garnishment” or “trustee process”.*

Comment

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

2. Subsection (b) provides that the person registering the judgment may not enforce the judgment by sale or other disposition of property or by seizure or garnishment of property until 31 days after service of notice of the registration on the person against whom the judgment is registered. The intent of this subsection is to provide a period during which a person against whom a judgment has been registered can take action to have the registration vacated before being subject to enforcement acts that could be dispositive with regard to the person’s property.

Section 14(3) of the Canadian UEFJA contains an analogous provision, which states that a registered judgment “may not be enforced by the sale or other disposition of any property of the judgment debtor before the expiry of 30 days after the judgment debtor has received notice of the proceedings to register the foreign judgment, or any longer period that the enforcing court may allow.” Harmonization on this issue is not complete, as subsection (b) prohibits enforcement acts that are short of final disposition of the property, but nevertheless may cause irreversible harm to the person against whom the judgment is registered.

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

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

SECTION 6. NOTICE OF REGISTRATION.

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

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

(c) Notice under this section must include:

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

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

(3) the name and address of:

(A) the person registering the judgment; and

(B) the person's attorney, if any;

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

(5) a statement that:

(A) the person against whom the judgment has been registered, not later than 30 days after the date of service of notice, may [petition] the court to vacate the registration; and

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

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

Legislative Note: "Complaint" is bracketed in subsection (b). The state should insert the appropriate term in the state to describe the initial pleading filed to commence a civil action.

"Registration" is bracketed in subsection (c)(2). The state should insert the appropriate term in the state for the docket in which the registration is filed.

“Petition” is bracketed in subsection (c)(5(A)). The state should insert the appropriate term in the state for a request for relief from a judgment.

“Clerk” is bracketed in subsection (d). The state should insert the appropriate term in the state for the court officer.

Comment

1. Subsection (a) requires that notice of the registration be served on the person against whom the judgment has been registered. Section 12(4)(b) of the Canadian UEFJA contains an analogous requirement.
2. The time of service of notice is a crucial measuring point under this Act. Both the 30-day non-enforcement period in Section 5(b) and the 30-day period in Section 7 (a) during which a person against whom a judgment is registered may file a petition to vacate the registration are measured from the time of service of notice. Prompt and adequate service of notice thus is critical to the ability of the person registering the judgment to enforce the registered judgment.
3. Registering a Canadian judgment is an alternative to the commencement of a lawsuit for its recognition. Nevertheless, some of the rules that apply to commencement of a lawsuit also apply in the registration context. Subsection (b) provides that the manner in which notice is to be given is the same as that provided by the rules governing service of summons and complaint in an action for recognition of a foreign-country judgment. *Cf.* Reciprocal Enforcement of Judgments Act of the Province of Alberta, §6(1)(a) (notice of registration to be served “in the same manner as a statement of claim is required to be served”). The subsection (b) reference to other law for the specific methodology by which notice is given includes not only the rules governing the method of service, but also those concerning other service-related issues, such as the timing of service and the time by which proof of service must be filed with the clerk of court.
4. The requirement under subsection (b) that notice of registration be served in the same manner as a summons and complaint normally will result in personal service of the registration notice, and is an important protection for the person against whom the judgment is registered. The requirement also harmonizes the Act with Canadian law on this issue. Registration under both the Reciprocal Enforcement of Judgments Acts and the Canadian UEFJA requires personal service. The rationales for requiring personal service in Canada are that (1) registration is the commencement of a new process rather than a corollary to an existing one in the enforcing jurisdiction, (2) because the person against whom the judgment is registered can object to registration and enforcement, that person should receive personal notice of the intended action, and (3) personal service is the best way to establish when the timelines in the registration process commence. The rationales for the Canadian personal service requirement and the desire to maintain parity between the Canadian and U.S. registration procedures to the extent practicable, provide additional reasons for the personal service requirement in subsection (b).
5. Subsection (c) lists the information that must be included in the notice of registration, including information regarding the registration and the person registering the judgment. Subsection (c)(4) requires that a copy of the registration, including a copy of the documents

required to be filed with the registration under Section 4(b), must be included with the notice. Subsection (c)(5) requires that a statement be included in the notice informing the person against whom the judgment has been registered that the person has 30 days after service in which to petition the court to vacate the registration, subject to the court's ability to alter that time period for cause.

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

SECTION 7. [PETITION] TO VACATE REGISTRATION.

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

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

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

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

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

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

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

Legislative Note: “Petition” is bracketed in the title and text of this section. The state should insert the appropriate term in the state for a request for relief from a judgment.

“Judgment” is bracketed in subsection (e). The state should insert the appropriate term in the state to describe a final court determination of the merits of a case.

Comment

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

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

3. Subsection (b) divides the grounds upon which a registration may be vacated into two categories. Under subsection (b)(1), a judgment debtor may assert as a basis for vacating the registration any ground that could be asserted to deny recognition to the Canadian judgment under the UFCMJRA. Given the “plug in” relationship of this Act to the UFCMJRA, subsection (b)(1) references the grounds for refusing recognition under the UFCMJRA rather than restating them. The defenses to recognition of a foreign-country judgment under the UFCMJRA are contained in UFCMJRA Section 4. Under this section, those defenses also are available to vacate registration of the judgment.

In addition to the UFCMJRA Section 4 defenses to recognition (which provide the only substantive grounds for denying recognition), there are other grounds for denying recognition

under the UFCMJRA, and those grounds also are available to the person against whom the Canadian judgment has been registered under subsection (b)(1). For example, another ground for denying recognition to a judgment under the UFCMJRA is that the judgment is not one to which the UFCMJRA applies under UFCMJRA Section 3. Section 3 of this Act provides that this Act applies to a Canadian judgment to the extent the judgment is within the scope of the UFCMJRA; therefore, if a judgment does not come within the scope of UFCMJRA Section 3, it also cannot be registered under this Act. (Canadian judgments not within the scope of the UFCMJRA, and thus not within the scope of this Act, of course, still can be recognized by a court under principles of comity or other applicable law. *See* UFCMJRA Section 11.) A third ground for denying recognition to a judgment under the UFCMJRA is that the action is barred by the statute of limitations found in UFCMJRA Section 9. This ground also would be available under this section as a basis to vacate registration of the judgment. As these examples illustrate, the intent of subsection (b)(1) is to allow the person against whom registration is sought to raise as a ground for vacating the registration any ground that would be available in this state as a basis for denying recognition to the judgment under the UFCMJRA.

The following examples illustrate the application of subsection (b)(1):

Example 1. Judgment Creditor registers a Canadian judgment against Judgment Debtor under Section 4 of this Act. Judgment Debtor files a timely petition to vacate the registration under this section on the ground that the Canadian court rendering the judgment did not have personal jurisdiction over Judgment Debtor. Under subsection (b)(1), Judgment Debtor may assert as a basis for vacating the registration any ground that could be asserted to deny recognition to the judgment under the UFCMJRA. UFCMJRA Section 4(b)(2) provides that a court “may not recognize a foreign-country judgment if . . . the foreign court did not have personal jurisdiction over the defendant” Therefore, Judgment Debtor may assert lack of personal jurisdiction as a basis for vacating the registration. Further, if the court finds that the Canadian court did not have personal jurisdiction over Judgment Debtor, the court *must* vacate the registration because UFCMJRA Section 4(b)(2) makes denial of recognition mandatory when the court finds a lack of personal jurisdiction. In addition, under subsection (e) of this section, the court must enter a judgment denying recognition to the Canadian judgment, and the judgment denying recognition will have the same effect as a judgment denying recognition to a foreign judgment for lack of personal jurisdiction under the UFCMJRA – that is, the Canadian judgment will not be recognized in the state.

Example 2. Judgment Creditor registers a Canadian judgment against Judgment Debtor under Section 4 of this Act. Judgment Debtor files a timely petition to vacate the registration under this section on the ground that the Canadian judgment is characterized as a domestic relations judgment under U.S. law and thus is not a judgment to which the UFCMJRA, and, therefore, this Act applies. Section 3 of this Act provides that this Act applies to a Canadian judgment to the extent the judgment is within the scope of UFCMJRA Section 3. UFCMJRA Section 3(b)(3) provides that the UFCMJRA “does not apply to a foreign-country judgment . . . to the extent that the judgment is . . . a judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic relations.” The fact a judgment is a domestic relations judgment thus is a ground for denying recognition to the judgment under the UFCMJRA. Therefore, under subsection (b)(1) of this section, it also is a ground for vacating the registration of the judgment.

In addition, under subsection (e) of this section, the court must enter a judgment denying recognition to the Canadian judgment, and the court's judgment denying recognition will have the same effect as a judgment denying recognition to a foreign judgment under the UFCMJRA on the ground that the foreign judgment is not within the scope of the UFCMJRA. UFCMJRA Section 11 provides that the UFCMJRA "does not prevent the recognition under principles of comity or otherwise of a foreign-country judgment not within the scope" of the UFCMJRA. Thus, the judgment rendered by the court under subsection (e) would prevent Judgment Creditor from seeking recognition of the judgment under the UFCMJRA or registering the Canadian judgment under this Act, but would not prevent Judgment Creditor from seeking recognition of the judgment under principles of comity or other applicable law, such as, for example, the Uniform Interstate Family Support Act (2008), if the Canadian judgment is one that fits within the scope of that Act.

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

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

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

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

8. Subsection (e) provides that, if a registration is vacated on the basis that the Canadian judgment is not entitled to recognition on a ground upon which recognition would be denied under the UFCMJRA, then, in addition to vacating the registration, the court shall issue a judgment denying recognition to the Canadian judgment. As discussed in comment 3 above, the subsection (b)(1) grounds for vacating a registration are the same as the grounds for denying

recognition to a Canadian judgment under the UFCMJRA. Therefore, if the court finds that one of those grounds exists, the result is not only that the registration is vacated, but also that recognition of the Canadian judgment is denied. Subsection (e) further provides that a judgment denying recognition on a subsection (b)(1) ground has the same effect as a judgment denying recognition on the same ground under the UFCMJRA.

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

SECTION 8. STAY OF ENFORCEMENT OF JUDGMENT PENDING

DETERMINATION OF [PETITION]. A person that files a [petition] under Section 7(a) to vacate registration of a Canadian judgment may request the court to stay enforcement of the judgment pending determination of the [petition]. The court shall grant the stay if the person establishes a likelihood of success on the merits with regard to a ground listed in Section 7(b) for vacating a registration. The court may require the person to provide security in an amount determined by the court as a condition of granting the stay.

Legislative Note: "Petition" is bracketed in the title and text of this section. The state should insert the appropriate term in the state for a request for relief from a judgment.

Comment

1. Under Section 7(c), the filing of a petition to vacate a registration does not of itself stay enforcement of the judgment. Instead, the person filing the petition may request a stay of enforcement under this section pending determination of the petition.
2. The standard to grant a stay pending determination of a petition to vacate a registration is a showing by the person requesting the stay of a likelihood of success on the merits with regard to one of the grounds for vacating a registration listed in Section 7(b). The grounds stated in Section 7(b) are the only grounds upon which a registration may be vacated; therefore, a showing of a likelihood of success with regard to one of these grounds provides the appropriate standard for staying enforcement activities pending the determination of a petition to vacate a registration. If the person requesting the stay meets the standard, then the court shall grant the stay.
3. In an appropriate circumstance, the court may require security pending determination of the petition. Whether to require security and the amount of any security required are within the discretion of the court.

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

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

(b) A person may seek recognition of a Canadian judgment described in Section 3 either:

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

(2) under [cite to Uniform Foreign-Country Money Judgments Recognition Act Section 6].

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

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

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

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

Legislative Note: “Petition” is bracketed in subsection (d). The state should insert the appropriate term in the state for a request for relief from a judgment.

Comment

1. Subsection (a) states the relationship between this Act and the UFCMJRA. The conceptual approach in drafting this Act is to create a “module” that will “plug in” to the provisions of the UFCMJRA. This approach means that the provisions contained in the UFCMJRA need not be

restated in this Act, as those provisions will apply equally to this Act. The only exception to this rule is Section 6 of the UFCMJRA. Unlike Section 6 of the UFCMJRA, this Act does not require that the person seeking recognition of a Canadian judgment file a court action. Therefore, Section 6 of the UFCMJRA does not apply to this Act. In providing for application of the rules of the UFCMJRA, the intent of this section is that all of those rules (other than Section 6) will apply, including not only substantive rules, but also other provisions, such as those dealing with allocation of burdens of proof and limitation of actions.

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

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

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

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

otherwise.”

SECTION 10. UNIFORMITY OF APPLICATION AND INTERPRETATION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 11. TRANSITIONAL PROVISION. This [act] applies to the registration of a Canadian judgment entered in a proceeding that is commenced in Canada on or after [the effective date of this [act]].

Comment

The Canadian UEFJA does not apply to foreign judgments “rendered in proceedings commenced before the coming into force of [the] Act.” Canadian UEFJA §3(f). This section places a comparable limitation on this Act. The Act applies only to a judgment entered in a proceeding commenced in Canada on or after the effective date of the Act. Thus, the critical date for determining whether this Act applies is the date the original proceeding that resulted in the Canadian judgment was commenced in the Canadian court.

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

***Legislative Note:** In a state that adopts both this act and the Uniform Foreign-Country Money Judgments Recognition Act in the same legislative session, the effective date of this act should be the same as, or later than, the effective date of the Uniform Foreign-Country Money Judgments Recognition Act.*