



THE UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT

- A Summary -

The Uniform Foreign-Country Money Judgments Recognition Act is a 2005 update to the Uniform Law Commission's earlier act on the subject, the Uniform Foreign Money-Judgments Recognition Act. The 1962 Act was adopted in 32 states, however, increased international trade and litigation has resulted in more judgments to enforce country to country. The 2005 Act addresses gaps in the 1962 Act and accounts for caselaw developments over the last several decades.

To enforce a foreign-country judgment under the 2005 Act, one must first seek recognition in state court by filing a lawsuit. If the judgment meets the statutory standards, the state court will recognize it. Then the judgment may be enforced as if it is a judgment of another state of the United States. Enforcement may then proceed, which means the judgment creditor may proceed against the property of the judgment debtor to satisfy the judgment amount.

First, it must be shown that the judgment is conclusive, final, and enforceable in the country of origin. Certain money judgments are excluded, such as judgments on taxes, fines, or criminal-like penalties, and judgments relating to domestic relations. Domestic relations judgments are enforced under other statutes, already existing in every state. A foreign-country judgment must not be recognized if it comes from a court system that is not impartial or that dishonors due process, or there is no personal jurisdiction over the defendant or over the subject matter of the litigation. There are a number of grounds that may make a U.S. court deny recognition, i.e., the defendant did not receive notice of the proceeding, or the claim is repugnant to American public policy. A final, conclusive judgment enforceable in the country of origin, if it is not excluded for one of the enumerated reasons, must be recognized and enforced. The 1962 Act and the 2005 Act generally operate the same.

The primary differences between the 1962 and the 2005 Uniform Acts are as follows:

- 1. The 2005 Act makes it clear that a judgment entitled to full faith and credit under the U.S. Constitution is not enforceable under this Act.** This clarifies the relationship between the 2005 Act and the Enforcement of Foreign Judgments Act. Recognition by a court is a different procedure than enforcement of a sister state judgment from within the United States.
- 2. The 2005 Act expressly provides that a party seeking recognition of a foreign judgment has the burden to prove that the judgment is subject to the Uniform Act.** Burden of proof was not addressed in the 1962 Act.
- 3. Conversely, the 2005 Act imposes the burden of proof for establishing a specific ground for non-recognition upon the party raising it.** Again, burden of proof is not addressed in the 1962 Act.

4. The 2005 Act addresses the specific procedure for seeking enforcement. If recognition is sought as an original matter, the party seeking recognition must file an action in the court to obtain recognition. If recognition is sought in a pending action, it may be filed as a counter-claim, cross-claim or affirmative defense in the pending action. The 1962 Act does not address the procedure to obtain recognition at all, leaving that to other state law.

5. The 2005 Act provides a statute of limitations on enforcement of a foreign-country judgment. If the judgment cannot be enforced any longer in the country of origin, it may not be enforced in a court of an enacting state. If there is no limitation on enforcement in the country of origin, the judgment becomes unenforceable in an enacting state after 15 years from the time the judgment is effective in the country of origin.

These are the major differences between the 2005 Act and the 1962 Act. The 2005 Act is not a radically new act. It builds upon the principles of the 1962 Act and improves it for the 21st century.

For further information about this Act, please contact Legislative Program Director Kaitlin Wolff at (312) 450-6615 or kwolff@uniformlaws.org.