

# STATE OF NEW YORK

4580

2021-2022 Regular Sessions

## IN ASSEMBLY

February 4, 2021

Introduced by M. of A. LAVINE -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to revising and clarifying the uniform foreign country money-judgments recognition act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The article heading of article 53 of the civil practice law  
2 and rules, as added by chapter 981 of the laws of 1970, is amended to  
3 read as follows:

### RECOGNITION OF FOREIGN COUNTRY MONEY JUDGMENTS

~~[SUMMARY OF ARTICLE]~~

6 § 2. Section 5301 of the civil practice law and rules, as added by  
7 chapter 981 of the laws of 1970, subdivision (a) as amended by chapter  
8 119 of the laws of 1979, is amended to read as follows:

9 § 5301. Definitions. As used in this article the following definitions  
10 shall be applicable.

11 (a) Foreign [~~state~~] country. "Foreign [~~state~~] country" [~~in this arti-~~  
12 ~~cle~~] means [~~any governmental unit~~] a government other than:

- 13 1. the United States[~~, or any~~];
- 14 2. a state, district, commonwealth, territory[~~7~~] or insular possession  
15 [~~thereof, or the Panama Canal Zone or the Trust Territory of the Pacific~~  
16 ~~Islands~~] of the United States; or
- 17 3. any other government with regard to which the decision in this  
18 state as to whether to recognize a judgment of that government's courts  
19 is initially subject to determination under the Full Faith and Credit  
20 Clause of the United States Constitution.

21 (b) Foreign country judgment. "Foreign country judgment" [~~in this~~  
22 ~~article~~] means [~~any~~] a judgment of a court of a foreign [~~state granting~~  
23 ~~or denying recovery of a sum of money, other than a judgment for taxes,~~

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 ~~a fine or other penalty, or a judgment for support in matrimonial or~~  
2 ~~family matters]~~ country.

3 § 3. Section 5302 of the civil practice law and rules, as added by  
4 chapter 981 of the laws of 1970, is amended to read as follows:

5 § 5302. Applicability. [~~This article applies to any foreign country~~  
6 ~~judgment which is final, conclusive and enforceable where rendered even~~  
7 ~~though an appeal therefrom is pending or it is subject to appeal.] (a)  
8 Except as otherwise provided in subdivision (b) of this section, the  
9 provisions of this article apply to a foreign country judgment to the  
10 extent that such judgment:~~

11 1. grants or denies recovery of a sum of money; and

12 2. under the law of the foreign country where rendered, is final,  
13 conclusive and enforceable even though an appeal therefrom is pending or  
14 it is subject to appeal.

15 (b) This article does not apply to a foreign country judgment, even if  
16 the judgment grants or denies recovery of a sum of money, to the extent  
17 the judgment is:

18 1. a judgment for taxes;

19 2. a fine or penalty; or

20 3. a judgment for divorce, support or maintenance, or other judgment  
21 rendered in connection with domestic relations.

22 (c) A party seeking recognition of a foreign country judgment has the  
23 burden of establishing that this article applies to the foreign country  
24 judgment.

25 § 4. Section 5303 of the civil practice law and rules, as added by  
26 chapter 981 of the laws of 1970, is amended to read as follows:

27 § 5303. Recognition [~~and~~] enforcement, and proceedings. (a) Except as  
28 is otherwise provided in section [5304] fifty-three hundred four of this  
29 article, a court of this state shall recognize a foreign country judg-  
30 ment [meeting the requirements of section 5302 is] to which this article  
31 applies as conclusive between the parties to the extent that it grants  
32 or denies recovery of a sum of money. [~~Such a foreign judgment is~~  
33 ~~enforceable by an action on the judgment, a motion for summary judgment~~  
34 ~~in lieu of complaint, or in a pending action by counterclaim, cross-~~  
35 ~~claim or affirmative defense.]~~

36 (b) If recognition of a foreign country judgment is sought as an  
37 original matter, the issue of recognition shall be raised by filing an  
38 action on the judgment or a motion for summary judgment in lieu of  
39 complaint seeking recognition of the foreign country judgment.

40 (c) If recognition of a foreign country judgment is sought in a pend-  
41 ing action, the issue of recognition may be raised by counterclaim,  
42 cross-claim or affirmative defense.

43 (d) An action to recognize a foreign country judgment must be  
44 commenced within the earlier of the time during which the foreign coun-  
45 try judgment is effective in the foreign country or twenty years from  
46 the date that the foreign country judgment became effective in the  
47 foreign country.

48 § 5. Section 5304 of the civil practice law and rules, as amended by  
49 chapter 66 of the laws of 2008, is amended to read as follows:

50 § 5304. Grounds for non-recognition. (a) [~~No recognition.~~] A court of  
51 this state may not recognize a foreign country judgment [~~is not conclu-~~  
52 ~~sive~~] if:

53 1. the judgment was rendered under a judicial system [~~which~~] that does  
54 not provide impartial tribunals or procedures compatible with the  
55 requirements of due process of law;

1 2. the foreign court did not have personal jurisdiction over the  
2 defendant; or

3 3. the foreign court did not have jurisdiction over the subject  
4 matter.

5 (b) [~~Other grounds for non-recognition.~~] A [~~foreign country judgment~~]  
6 court of this state need not [~~be recognized~~] recognize a foreign country  
7 judgment if:

8 1. [~~the foreign court did not have jurisdiction over the subject~~  
9 ~~matter;~~

10 2- the defendant in the [~~proceedings~~] proceeding in the foreign court  
11 did not receive notice of the [~~proceedings~~] proceeding in sufficient  
12 time to enable [~~him~~] the defendant to defend;

13 [~~3-~~] 2. the judgment was obtained by fraud that deprived the losing  
14 party of an adequate opportunity to present its case;

15 [~~4-~~] 3. the judgment or the cause of action on which the judgment is  
16 based is repugnant to the public policy of this state or of the United  
17 States;

18 [~~5-~~] 4. the judgment conflicts with another final and conclusive judg-  
19 ment;

20 [~~6-~~] 5. the proceeding in the foreign court was contrary to an agree-  
21 ment between the parties under which the dispute in question was to be  
22 [~~settled~~] determined otherwise than by [~~proceedings~~] a proceeding in  
23 that court;

24 [~~7-~~] 6. in the case of jurisdiction based only on personal service,  
25 the foreign court was a seriously inconvenient forum for the trial of  
26 the action; [~~or~~]

27 7. the judgment was rendered in circumstances that raise substantial  
28 doubt about the integrity of the rendering courts with respect to the  
29 judgment;

30 8. the specific proceeding in the foreign court leading to the judg-  
31 ment was not compatible with the requirements of due process of law; or

32 9. the cause of action resulted in a defamation judgment obtained in a  
33 jurisdiction outside the United States, unless the court before which  
34 the matter is brought sitting in this state first determines that the  
35 defamation law applied in the foreign court's adjudication provided at  
36 least as much protection for freedom of speech and press in that case as  
37 would be provided by both the United States and New York constitutions.

38 (c) A party resisting recognition of a foreign country judgment has  
39 the burden of establishing that a ground for non-recognition stated in  
40 subdivision (a) or (b) of this section exists.

41 § 6. Section 5305 of the civil practice law and rules, as added by  
42 chapter 981 of the laws of 1970, is amended to read as follows:

43 § 5305. Personal jurisdiction. (a) [~~Bases of jurisdiction. The~~] A  
44 foreign country judgment [~~shall~~] may not be refused recognition for lack  
45 of personal jurisdiction if:

46 1. the defendant was served with process personally in the foreign  
47 [~~state~~] country;

48 2. the defendant voluntarily appeared in the [~~proceedings~~] proceeding,  
49 other than for the purpose of protecting property seized or threatened  
50 with seizure in the [~~proceedings~~] proceeding or of contesting the juris-  
51 diction of the court over [~~him~~] the defendant;

52 3. the defendant prior to the commencement of the [~~proceedings~~]  
53 proceeding had agreed to submit to the jurisdiction of the foreign court  
54 with respect to the subject matter involved;

55 4. the defendant was domiciled in the foreign [~~state~~] country when the  
56 [~~proceedings were~~] proceeding was instituted[~~7~~] or[~~7 being a body corpo-~~

1 ~~rate~~ was a corporation or other form of business organization that had  
2 its principal place of business [~~, was incorporated,~~ in, or was organ-  
3 ized under the laws of, or had otherwise acquired corporate status, in  
4 the foreign [~~state~~ country];

5 5. the defendant had a business office in the foreign [~~state~~ country  
6 and the [~~proceedings~~ proceeding in the foreign court involved a cause  
7 of action arising out of business done by the defendant through that  
8 office in the foreign [~~state~~ country; or

9 6. the defendant operated a motor vehicle or airplane in the foreign  
10 [~~state~~ country and the [~~proceedings~~ proceeding involved a cause of  
11 action arising out of such operation.

12 (b) [~~Other bases of jurisdiction.~~] The courts of this state may recog-  
13 nize [~~other~~ personal jurisdiction other than those listed in  
14 subdivision (a) of this section as sufficient to support a foreign coun-  
15 try judgment.

16 § 7. Section 5306 of the civil practice law and rules, as added by  
17 chapter 981 of the laws of 1970, is amended to read as follows:

18 § 5306. Stay [~~in case~~] of a proceeding pending appeal of a foreign  
19 country judgment. If [~~the defendant satisfies the court either~~] a party  
20 establishes that an appeal from a foreign country judgment is pending or  
21 [~~that he is entitled and intends to appeal from the foreign country~~  
22 judgment] will be taken, the court may stay [~~the proceedings~~] any  
23 proceeding with regard to the foreign country judgment until the appeal  
24 [~~has been determined or until the expiration of a period of time~~] is  
25 concluded, the time for appeal expires, or the appellant has had suffi-  
26 cient [~~to enable the defendant~~] time to prosecute the appeal and has  
27 failed to do so.

28 § 8. Section 5307 of the civil practice law and rules, as added by  
29 chapter 981 of the laws of 1970, is amended to read as follows:

30 § 5307. [~~Recognition in other situations.~~] Effect of recognition. (a)  
31 If the court, in a proceeding under section fifty-three hundred five of  
32 this article finds that the judgment is entitled to recognition under  
33 this article, then, to the extent that the foreign country judgment  
34 grants or denies recovery of a sum of money, the foreign country judg-  
35 ment is:

36 1. conclusive between the parties to the same extent as the judgment  
37 of a sister state entitled to full faith and credit in this state would  
38 be conclusive; and

39 2. enforceable in the same manner and to the same extent as a judgment  
40 rendered in this state.

41 (b) This article does not prevent the recognition of a foreign country  
42 judgment in situations not covered by this article.

43 § 9. Section 5309 of the civil practice law and rules, as added by  
44 chapter 981 of the laws of 1970, is amended to read as follows:

45 § [~~5309.~~] 5300. Citation. This article may be cited as the "Uniform  
46 Foreign Country [~~Money Judgments Recognition~~] Money Judgments Act."

47 § 10. This act shall take effect immediately and shall apply to all  
48 actions commenced on or after the effective date of this act.