



The Uniform Foreign-Country Money Judgments Recognition Act (2005)¹

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Introduction

The 2005 Act continues the basic policies and approaches of the '62 act and corrects some problems of interpretation and clarifies some provision. The Act and official comments can be found at <http://www.law.upenn.edu/bll/archives/ulc/ufmjra/2005final.htm>

Minnesota adopted the 1962 Uniform Act - M.S. §548.35.

- A. Section 3. Applicability.** The act governs recognition of money judgments from courts of foreign countries.
- a. It does not apply to judgments of courts of:
 - i. The United States,
 - ii. A state, district, commonwealth, territory, or insular possession of the U.S., or
 - iii. Any other government whose decision is initially subject to determination under the Full Faith and Credit Clause of the U.S. Constitution.
 - b. It does not apply to judgments:
 - i. For taxes,
 - ii. That constitute fines and penalties,

¹ This outline is taken directly from the Act and Comments published by the National Conference of Commissioners on Uniform State Laws.

1. See Restatement 3rd of the Foreign Relations Law of the United States §483 (1986),
- iii. In domestic relations.
 1. Because national laws vary widely, domestic relations judgments are left enforced under principles of comity.
 2. Other statutes apply to some aspects:
 - a. Uniform Interstate Family Support Act, and
 - b. International Child Support Enforcement Act 42 U.S.C. §659a.

B. Section 4. Standards for Recognition of Foreign-Country Judgment.

- a. Except as provided in subsections (b) and (c) a court shall recognize a foreign-country judgment.
- b. A court shall not recognize a foreign-country judgment if:
 - i. The judicial system does not provide impartial tribunals or procedures compatible with the requirements of due process;
 - ii. Foreign court did not
 1. Have personal jurisdiction over the defendant;
 2. Did not have subject matter jurisdiction.
- c. A court need not recognize a foreign country judgment if:
 - i. The defendant did not receive timely notice and sufficient time to defend;
 - ii. It was obtained by fraud depriving the losing party an adequate opportunity to present its case;
 - iii. The judgment or the policy on which it is based is repugnant to the public policy of this state or the U.S.
 - iv. It conflicts with another final and conclusive judgment;
 - v. The proceeding was contrary to an agreement between the parties under which disputes were to be settled by proceedings other than the foreign court;
 - vi. In case of personal service the foreign court was a seriously inconvenient forum;
 - vii. Circumstances under which the judgment was rendered raised serious doubts about the integrity of the rendering court; or
 - viii. The proceedings were not compatible with the requirements of due process.
- d. The party resisting recognition has the burden of establishing the grounds for non-recognition.

C. Section 5. Personal Jurisdiction.

- a. A foreign-country judgment cannot be refused recognition for lack of personal jurisdiction if:
 - i. The defendant was served with process personally in the foreign country;
 - ii. The defendant voluntarily appeared other than to contest jurisdiction;
 - iii. Defendant, before commencement of the proceeding, had agreed to submit to jurisdiction of the court with respect to the subject matter;
 - iv. The defendant was domiciled in the foreign country when the proceeding was instituted or was a business organization that had its principal place of business in, or was organized, under the laws of the foreign country;
 - v. The defendant had an office in the foreign country and the proceeding involved a claim arising out of business done by the defendant through that office; or
 - vi. The defendant operated a motor vehicle or airplane in the foreign country and the claim resulted from its operation.
- b. This list of bases for personal jurisdiction is not exclusive and courts may recognize other bases.

D. Section 6. Procedure for Recognition of Foreign-Country Judgment.

- a. If recognition is sought as an original matter the issue is raised by filing an action.
- b. If recognition is sought in a pending action the issue may be raised by counterclaim, cross-claim, or affirmative defense.

E. Section 7. Effect of Recognition.

- a. If the court finds that the judgment is entitled to recognition under this Act then, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, the foreign-country judgment is:
 - i. Conclusive between the parties to the same extent as the judgment of a sister state is entitled to full faith and credit would be conclusive; and
 - ii. Enforceable as a judgment rendered in this state.

F. Section 8. Stay of Proceedings Pending Appeal of Foreign Country Judgment. If an appeal from a foreign-country judgment is pending or will be taken, the court may stay proceedings until the appeal is concluded, the time for appeal expires, or the appellant had sufficient time to prosecute the appeal and failed to do so.

- G. Section 9. Statute of Limitation.** Action to recognize a foreign-country judgment must be commenced within the earlier of the time permitted in the foreign country or 15 years.
- H. Section 10. Uniformity of Interpretation.** The need for uniformity must be given consideration when interpreting the act.
- I. Section 11. Savings Clause.** This act does not prevent recognition under principles of comity or otherwise of a foreign-country judgment not within the scope of this act.
- J. Section 12. Effective Date.**