

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN  
2014 (SECOND) REGULAR SESSION

Bill No. 400-32 (COR)

Introduced by:

R.J. RESPICIO 

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AN ACT TO ADOPT THE UNIFORM ENFORCEMENT  
OF FOREIGN JUDGMENTS ACT ("UEFJA") AND THE  
UNIFORM FOREIGN MONEY JUDGMENTS  
RECOGNITION ACT ("UFMJRA")

  
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1           **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2           **Section I. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds that to  
3 enforce a sister-state judgment in Guam, the judgment creditor must bring an action on  
4 the judgment; when a Guam judgment is obtained, the execution may issue. This  
5 manner of enforcing judgments of sister states requires all the normal trappings of an  
6 original action: The judgment creditor must file a complaint. There must be personal or  
7 quasi in rem jurisdiction. The creditor may obtain a writ of attachment, if available, to  
8 preserve assets until such time as a writ of execution may be issued. A trial (however  
9 summary) must be held, at which time the judgment debtor may raise any defenses to  
10 the validity of the sister-state judgment. Only after the entry of the Guam judgment  
11 may the judgment creditor seek execution on the debtor's assets in Guam.

12           *I Liheslaturan Guahan* finds that the formal, traditional process for enforcing  
13 sister-state judgments is time-consuming and inefficient. A simpler and more efficient  
14 procedure is offered by the revised Uniform Enforcement of Foreign Judgments Act of  
15 1964 ("UEFJA"). Under the UEFJA, a sister-state judgment may be filed with the court  
16 in the state where enforcement is sought and is then treated as a judgment of that court.  
17 It provides a streamlined procedure to domesticate judgments rendered in other states  
18 or territories of the United States. It avoids the cost and delay that results from needing  
19 to bring a new lawsuit to enforce a sister-state judgment, and it relieves court

1 congestion. It has been adopted by 47 states, the District of Columbia and the CNMI.

2 *I Liheslaturan Guahan* finds that the Uniform Foreign Money Judgments  
3 Recognition Act (“UFMJRA”) simplifies international business by recognizing money  
4 judgments obtained in other nations. International law provides for recognition by  
5 foreign countries of judgments obtained in the adopting state. While all states are  
6 required to recognize foreign judgments as a matter of comity under certain  
7 circumstances under *Hilton v. Guyot*, 159 U.S. 113 (1895), most states have elected to  
8 adopt some version of the UFMJRA to provide uniformity and simplify the procedure.  
9 Moreover, because many civil law countries condition recognition of money judgments  
10 from foreign courts upon reciprocity, codification of the UFMJRA will make it more  
11 likely that judgments rendered in the Territory of Guam will be recognized in foreign  
12 countries.

13 Therefore, it is the intent of *I Liheslaturan Guahan* to adopt and enact the UEFJA  
14 and the UFMJRA in the Territory of Guam.

15 **The Uniform Enforcement of Foreign Judgments Act (“UEFJA”) is hereby**  
16 **enacted to read as follows:**

17 **THE UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT OF 2013**

18 **Section 1. Title.** This Act shall be known as the “*Uniform Enforcement of Foreign*  
19 *Judgments Act of 2013*”.

20 **Section 2. Purpose.** To provide a simpler and more efficient procedure to  
21 domesticate judgments rendered in other states or territories of the United States that  
22 result from needing to bring a new lawsuit to enforce a sister-state judgment.

23 **Section 3. Definitions.** As used in this Act, unless the context otherwise requires,  
24 “foreign judgment” means any judgment, decree, or order of a court of the United  
25 States or of any other court which is entitled to full faith and credit in the Territory of  
26 Guam.

27 **Section 4. Filing and Status of Foreign Judgments.** A copy of any foreign

1 judgment authenticated in accordance with an act of Congress or the statutes or court  
2 rules of the Territory of Guam may be filed in the office of the Clerk of the Superior  
3 Court of Guam. The Clerk shall treat the foreign judgment in the same manner as a  
4 judgment of the Superior Court of Guam. A judgment so filed has the same effect and  
5 is subject to the same procedures, defenses and proceedings for reopening, vacating, or  
6 staying as a judgment of the Superior Court of Guam and may be enforced or satisfied  
7 in like manner.

8 **Section 5. Notice of Filing.**

9 (a) At the time of the filing of the foreign judgment, the judgment creditor or  
10 the judgment creditor's lawyer shall make and file with the Clerk of Court an affidavit  
11 setting forth the name and last known post office address of the judgment debtor and  
12 the judgment creditor.

13 (b) Promptly upon the filing of the foreign judgment and the affidavit, the  
14 Clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at  
15 the address given and shall make a note of the mailing in the docket. The notice shall  
16 include the name and post office address of the judgment creditor and the judgment  
17 creditor's lawyer, if any, in the Territory of Guam. In addition, the judgment creditor  
18 may mail a notice of the filing of the judgment to the judgment debtor and may file  
19 proof of mailing with the Clerk. Lack of mailing notice of filing by the Clerk shall not  
20 affect the enforcement proceedings if proof of mailing by the judgment creditor has  
21 been filed.

22 (c) No execution or other process for enforcement of a foreign judgment filed  
23 hereunder shall issue until 30 days after the date the judgment is filed.

24 **Section 6. Stay.**

25 (a) If the judgment debtor shows the Superior Court in which the judgment is  
26 filed that an appeal from the foreign judgment is pending or will be taken, or that a stay  
27 of execution has been granted, the Court shall stay enforcement of the foreign judgment

1 until the appeal is concluded, the time for appeal expires, or the stay of execution  
2 expires or is vacated, upon proof that the judgment debtor has furnished the security  
3 for the satisfaction of the judgment required by the state or other jurisdiction in which it  
4 was rendered.

5 (b) If the judgment debtor shows the Superior Court in which the judgment is  
6 filed any ground upon which enforcement of a judgment of the Superior Court of the  
7 Territory of Guam would be stayed, the Court shall stay enforcement of the foreign  
8 judgment for an appropriate period, upon requiring the same security for satisfaction of  
9 the judgment which is required in the Territory of Guam.

10 **Section 7. Fees.** Any person filing a foreign judgment shall pay to the Clerk of  
11 Court a filing fee equal to that established by Court rule for the filing of civil actions.

12 **Section 8. Optional Procedure.** The right of a judgment creditor to bring an  
13 action to enforce his judgment instead of proceeding under this act remains  
14 unimpaired.

15 **Section 9. Uniformity of Interpretation.** This act shall be so interpreted and  
16 construed as to effectuate its general purpose to make uniform the law of those states  
17 and other jurisdiction which enact it.

18 **The Uniform Foreign Money-Judgments Recognition Act is hereby enacted to**  
19 **read as follows:**

20 **THE UNIFORM FOREIGN MONEY-JUDGMENTS RECOGNITION ACT OF 2013**

21 **Section 1. Title.** This Chapter shall be known as the “**Uniform Foreign Money-**  
22 **Judgments Recognition Act of 2013**”.

23 **Section 2. Definitions.** As used in this Chapter:

- 24 (1) “Foreign country” means a government other than:  
25 a. the United States;  
26 b. a state, district, commonwealth, territory, or insular possession of the  
27 United States; or

1 c. any other government with regard to which the decision in this state as to  
2 whether to recognize a judgment of that government's courts is initially subject to  
3 determination under the Full Faith and Credit Clause of the United States Constitution.

4 (2) "Foreign-country judgment" means a judgment of a court of a foreign  
5 country.

6 **Section 3. Applicability of article.**

7 (1) Except as otherwise provided in subsection (2), this Chapter applies to a  
8 foreign-country judgment to the extent that the judgment both:

- 9 a. grants or denies recovery of a sum of money; and
- 10 b. under the law of the foreign country where rendered, is final, conclusive,  
11 and enforceable.

12 (2) This chapter does not apply to a foreign-country judgment, even if the  
13 judgment grants or denies recovery of a sum of money, to the extent that the judgment  
14 is:

- 15 a. a judgment for taxes;
- 16 b. a fine or other penalty; or
- 17 c. a judgment for divorce, support, or maintenance, or other judgment  
18 rendered in connection with domestic relations.

19 (3) A party seeking recognition of a foreign-country judgment has the burden  
20 of establishing that this chapter applies to the foreign-country judgment.

21 **Section 4. Standards for recognition of foreign-country judgment.**

22 (1) Except as otherwise provided in subsections 2 and 3, a court of the  
23 Territory of Guam shall recognize a foreign-country judgment to which this chapter  
24 applies.

25 (2) A court of the Territory of Guam shall not recognize a foreign-country  
26 judgment if any of the following apply:

1           a.     The judgment was rendered under a judicial system that does not provide  
2 impartial tribunals or procedures compatible with the requirements of due process of  
3 law;

4           b.     The foreign court did not have personal jurisdiction over the defendant;

5           c.     The foreign court did not have jurisdiction over the subject matter.

6           (3)    A court of the Territory of Guam need not recognize a foreign-country  
7 judgment if any of the following apply:

8           a.     The defendant in the proceeding in the foreign court did not receive notice  
9 of the proceeding in sufficient time to enable the defendant to defend.

10          b.     The judgment was obtained by fraud that deprived the losing party of an  
11 adequate opportunity to present its case.

12          c.     The judgment or the cause of action or claim for relief on which the  
13 judgment is based is repugnant to the public policy of the Territory of Guam or of the  
14 United States.

15          d.     The judgment conflicts with another final and conclusive judgment.

16          e.     The proceeding in the foreign court was contrary to an agreement  
17 between the parties under which the dispute in question was to be determined  
18 otherwise than by proceedings in that foreign court.

19          f.     In the case of jurisdiction based only on personal service, the foreign court  
20 was a seriously inconvenient forum for the trial of the action.

21          g.     The judgment was rendered in circumstances that raise substantial doubt  
22 about the integrity of the rendering court with respect to the judgment.

23          h.     The specific proceeding in the foreign court leading to the judgment was  
24 not compatible with the requirements of due process of law.

25          (4)    A party resisting recognition of a foreign-country judgment has the  
26 burden of establishing that a ground for non-recognition stated in subsection 2 or 3  
27 exists.

1           **Section 5. Personal Jurisdiction.**

2           (1) A foreign-country judgment shall not be refused recognition for lack of  
3 personal jurisdiction if any of the following apply:

4           a. the defendant was served with process personally in the foreign country;

5           b. the defendant voluntarily appeared in the proceeding, other than for the  
6 purpose of protecting property seized or threatened with seizure in the proceeding or of  
7 contesting the jurisdiction of the court over the defendant;

8           c. the defendant, before the commencement of the proceeding, had agreed to  
9 submit to the jurisdiction of the foreign court with respect to the subject matter  
10 involved;

11           d. the defendant was domiciled in the foreign country when the proceeding  
12 was instituted or was a corporation or other form of business organization that had its  
13 principal place of business in, or was organized under the laws of, the foreign country;

14           e. the defendant had a business office in the foreign country and the  
15 proceeding in the foreign court involved a cause of action arising out of business done  
16 by the defendant through that office in the foreign country; or

17           f. the defendant operated a motor vehicle or airplane in the foreign country  
18 and the proceeding involved a cause of action arising out of that operation.

19           (2) The list of bases for personal jurisdiction in subsection 1 is not exclusive.  
20 The courts of this state may recognize bases of personal jurisdiction other than those  
21 listed in subsection 1 as sufficient to support a foreign-country judgment.

22           **Section 6. Procedure for raising issue of recognition of foreign-country money**  
23 **judgment**

24           (1) If recognition of a foreign-country judgment is sought as an original  
25 matter, the issue of recognition shall be raised by filing an action seeking recognition of  
26 the foreign-country judgment.

1           (2) If recognition of a foreign-country judgment is sought in a pending action,  
2 the issue of recognition may be raised by counterclaim, cross-claim, or affirmative  
3 defense.

4           **Section 7. Effect of recognition of foreign-country judgment**

5           If the court in a proceeding under section 6 finds that the foreign-country  
6 judgment is entitled to recognition under this chapter then, to the extent that the  
7 foreign-country judgment grants or denies recovery of a sum of money, the foreign-  
8 country judgment is:

9           (1) conclusive between the parties to the same extent as the judgment of a  
10 sister state entitled to full faith and credit in this state would be conclusive; and

11           (2) Enforceable in the same manner and to the same extent as a judgment  
12 rendered in the territory of Guam.

13           **Section 8. Stay of proceedings pending appeal of foreign-country judgment**

14           If a party establishes that an appeal from a foreign-country judgment is pending  
15 or will be taken, the court may stay any proceedings with regard to the foreign-country  
16 judgment until the appeal is concluded, the time for appeal expires, or the appellant has  
17 had sufficient time to prosecute the appeal and has failed to do so.

18           **Section 9. Statute of limitations.**

19           An action to recognize a foreign-country judgment must be commenced within  
20 the earlier of the time during which the foreign-country judgment is effective in the  
21 foreign country or fifteen years from the date that the foreign-country judgment became  
22 effective in the foreign country.

23           **Section 10. Uniformity of interpretation.**

24           In applying and construing this chapter, consideration must be given to the need  
25 to promote uniformity of the law with respect to its subject matter among states that  
26 enact the "Uniform Foreign-Country Money Judgments Recognition Act".

27           **Section 11. Saving clause.**



1           The Uniform Foreign-Country Money Judgments Recognition Act does not  
2 prevent the recognition under principles of comity or otherwise of a foreign-country  
3 judgment not within the scope of that Act.

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