

I Mina'Trentai Dos Na Liheslaturan Received
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
400-32 (COR)	R. J. Respicio	AN ACT TO ADOPT THE UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT ("UEFJA") AND THE UNIFORM FOREIGN MONEY JUDGMENTS RECOGNITION ACT ("UFMJRA").	9/17/14 4:04 p.m.	09/18/14	Committee on the Guam U. S. Military Relocation, Homeland Security, Veteran's Affairs, and Judiciary			



COMMITTEE ON RULES

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September 18, 2014

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio** 
Chairperson of the Committee on Rules

Subject: Referral of Bill No. 400-32(COR)

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 400-32(COR)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

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

Bill No. ~~400~~-32 (COR)

Introduced by:

R.J. RESPICIO 

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

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

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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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