

Senate Bill 286

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Enacts Uniform Foreign-Country Money Judgments Recognition Act.

A BILL FOR AN ACT

1
2 Relating to foreign-country judgments; creating new provisions; amending ORS 24.290; and repealing
3 ORS 24.200, 24.210, 24.220, 24.230, 24.240, 24.250 and 24.255.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Definitions. As used in sections 1 to 11 of this 2009 Act:**

6 (1) "Foreign country" means a government other than:

7 (a) The United States;

8 (b) A state, district, commonwealth, territory or insular possession of the United States;

9 or

10 (c) Any other government with regard to which the decision in this state as to whether
11 to recognize a judgment of that government's courts is initially subject to determination
12 under the Full Faith and Credit Clause of the United States Constitution.

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

14 **SECTION 2. Applicability to judgments. (1) Except as provided in subsection (2) of this**
15 **section, sections 1 to 11 of this 2009 Act apply to a foreign-country judgment to the extent**
16 **that the judgment:**

17 (a) Grants or denies recovery of a sum of money; and

18 (b) Under the law of the foreign country where rendered, is final, conclusive and en-
19 forceable.

20 (2) Sections 1 to 11 of this 2009 Act do not apply to a foreign-country judgment, even if
21 the judgment grants or denies recovery of a sum of money, to the extent that the judgment
22 is:

23 (a) A judgment for taxes;

24 (b) A fine or other penalty; or

25 (c) A judgment for divorce, support or maintenance, or other judgment rendered in con-
26 nection with domestic relations.

27 (3) A party seeking recognition of a foreign-country judgment has the burden of estab-
28 lishing that sections 1 to 11 of this 2009 Act apply to the foreign-country judgment.

29 **SECTION 3. Standards for recognition of foreign-country judgment. (1) Except as pro-**
30 **vided in subsections (2) and (3) of this section, a court of this state shall recognize a**
31 **foreign-country judgment to which sections 1 to 11 of this 2009 Act apply.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 (2) A court of this state may not recognize a foreign-country judgment if:

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

4 (b) The foreign court did not have personal jurisdiction over the defendant; or

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

6 (3) A court of this state need not recognize a foreign-country judgment if:

7 (a) The defendant in the proceeding in the foreign court did not receive notice of the
8 proceeding in sufficient time to enable the defendant to defend;

9 (b) The judgment was obtained by fraud that deprived the losing party of an adequate
10 opportunity to present the party's case;

11 (c) The judgment or the claim for relief on which the judgment is based is repugnant to
12 the public policy of this state or of the United States;

13 (d) The judgment conflicts with another final and conclusive judgment;

14 (e) The proceeding in the foreign court was contrary to an agreement between the par-
15 ties under which the dispute in question was to be determined other than by proceedings in
16 that foreign court;

17 (f) In the case of jurisdiction based only on personal service, the foreign court was a se-
18 riously inconvenient forum for the trial of the action;

19 (g) The judgment was rendered in circumstances that raise substantial doubt about the
20 integrity of the rendering court with respect to the judgment; or

21 (h) The specific proceeding in the foreign court leading to the judgment was not com-
22 patible with the requirements of due process of law.

23 (4) A party resisting recognition of a foreign-country judgment has the burden of estab-
24 lishing that a ground for nonrecognition stated in subsection (2) or (3) of this section exists.

25 **SECTION 4. Personal jurisdiction.** (1) A foreign-country judgment may not be refused
26 recognition for lack of personal jurisdiction if:

27 (a) The defendant was served with process personally in the foreign country;

28 (b) The defendant voluntarily appeared in the proceeding other than for the purpose of
29 protecting property seized or threatened with seizure in the proceeding or for the purpose
30 of contesting the jurisdiction of the court over the defendant;

31 (c) The defendant, before the commencement of the proceeding, had agreed to submit to
32 the jurisdiction of the foreign court with respect to the subject matter involved;

33 (d) The defendant was domiciled in the foreign country when the proceeding was insti-
34 tuted or was a corporation or other form of business organization that had its principal place
35 of business in, or was organized under the laws of, the foreign country;

36 (e) The defendant had a business office in the foreign country and the proceeding in the
37 foreign court involved a claim for relief arising out of business done by the defendant
38 through that office in the foreign country; or

39 (f) The defendant operated a motor vehicle or airplane in the foreign country and the
40 proceeding involved a claim for relief arising out of that operation.

41 (2) The list of bases for personal jurisdiction in subsection (1) of this section is not ex-
42 clusive. The courts of this state may recognize bases for personal jurisdiction other than
43 those listed in subsection (1) of this section as sufficient to support a foreign-country judg-
44 ment.

45 **SECTION 5. Procedure for recognition of foreign-country judgment.** (1) If recognition of

1 a foreign-country judgment is sought as an original matter, the issue of recognition shall be
2 raised by filing an action seeking recognition of the foreign-country judgment.

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

5 **SECTION 6. Effect of recognition of foreign-country judgment.** If the court in a pro-
6 ceeding under section 5 of this 2009 Act finds that the foreign-country judgment is entitled
7 to recognition under sections 1 to 11 of this 2009 Act, then, to the extent that the foreign-
8 country judgment grants or denies recovery of a sum of money, the foreign-country judg-
9 ment is:

10 (1) Conclusive between the parties to the same extent as the judgment of another state
11 entitled to full faith and credit in this state is conclusive; and

12 (2) Enforceable in the same manner and to the same extent as a judgment rendered in
13 this state.

14 **SECTION 7. Stay of proceedings pending appeal of foreign-country judgment.** If a party
15 establishes that an appeal from a foreign-country judgment is pending or that an appeal will
16 be taken, the court may stay any proceedings with regard to the foreign-country judgment
17 until the appeal is concluded, the time for appeal expires or the appellant has had sufficient
18 time to prosecute the appeal and has failed to do so.

19 **SECTION 8. Statute of limitations.** An action to recognize a foreign-country judgment
20 must be commenced within the earlier of the time during which the foreign-country judg-
21 ment is effective in the foreign country or 15 years from the date that the foreign-country
22 judgment became effective in the foreign country.

23 **SECTION 9. Uniformity of interpretation.** In applying and construing sections 1 to 11 of
24 this 2009 Act, consideration must be given to the need to promote uniformity of the law with
25 respect to its subject matter among states that enact it.

26 **SECTION 10. Saving clause.** Sections 1 to 11 of this 2009 Act do not prevent the recog-
27 nition under principles of comity or otherwise of a foreign-country judgment not within the
28 scope of sections 1 to 11 of this 2009 Act.

29 **SECTION 11. Short title.** Sections 1 to 11 of this 2009 Act may be cited as the Uniform
30 Foreign-Country Money Judgments Recognition Act.

31 **SECTION 12. Applicability to actions.** Sections 1 to 11 of this 2009 Act apply only to
32 actions commenced on or after the effective date of this 2009 Act in which the issue of re-
33 cognition of a foreign-country judgment is raised. Any action commenced before the effective
34 date of this 2009 Act in which the issue of recognition of a foreign-country judgment is raised
35 shall continue to be governed by the provisions of ORS 24.200 to 24.255, as those statutes
36 were in effect immediately before the effective date of this 2009 Act.

37 **SECTION 13.** ORS 24.290 is amended to read:

38 24.290. (1) Except as provided in subsection (3) of this section, a judgment or award on a
39 foreign-money claim must be stated in an amount of the money of the claim.

40 (2) A judgment or award on a foreign-money claim is payable in that foreign money or, at the
41 option of the debtor, in the amount of United States dollars which will purchase that foreign money
42 on the conversion date at a bank-offered spot rate, except that any payment made through a court
43 pursuant to ORS 18.235 must be made in United States dollars. When a payment is made to the
44 court, the judgment debtor shall simultaneously file with the court an affidavit or certificate exe-
45 cuted in good faith by its counsel or a bank officer stating the rate of exchange used and how it

1 was obtained and setting forth the calculation and the amount of the money of the claim that will
2 be satisfied by the payment. Affected court officials incur no liability, after a filing of the affidavit
3 or certificate, for acting as if the judgment were in the amount of United States dollars stated in
4 the affidavit or certificate.

5 (3) Assessed costs, disbursements and attorney fees must be entered in United States dollars.

6 (4) Each payment in United States dollars must be accepted and credited on a judgment or
7 award on a foreign-money claim in the amount of the foreign money that could be purchased by the
8 dollars at a bank-offered spot rate of exchange at or near the close of business on the conversion
9 date for that payment.

10 (5) A judgment or award made in an action or distribution proceeding on both a defense, setoff,
11 recoupment or counterclaim and the adverse party's claim, must be netted by converting the money
12 of the smaller into the money of the larger, and by subtracting the smaller from the larger, and
13 specify the rates of exchange used.

14 (6) A judgment or award substantially complies with subsection (1) of this section when it is
15 plainly titled as a judgment, it complies with the requirements of ORS 18.038 and it includes all of
16 the following:

17 (a) The names of the judgment creditor, the judgment creditor's attorney and the judgment
18 debtor.

19 (b) The amount of the judgment in the foreign money of the claim, the type of foreign money
20 and the [*foreign state, as defined by ORS 24.200 (1)*] **foreign country, as defined in section 1 of**
21 **this 2009 Act**, utilizing the money that the claim is denominated in.

22 (c) The interest owed to the date of the judgment, either as a specific amount in the foreign
23 money or as accrual information, including the rate or rates of interest as determined by ORS
24 24.300, the balance or balances upon which the interest accrues, the date or dates from which in-
25 terest at each rate on each balance runs, and whether interest is simple or compounded and, if
26 compounded, at what intervals.

27 (d) Post-judgment interest accrual information, including the rate or rates of interest as deter-
28 mined by ORS 24.300, the balance or balances upon which interest accrues, the date or dates from
29 which interest at each rate on each balance runs, and whether interest is simple or compounded
30 and, if compounded, at what intervals.

31 (e) For judgments that accrued on a periodic basis, any accrued arrearages, required further
32 payments per period in the foreign money and accrual dates.

33 (f) A statement that the judgment debtor has the option to pay the judgment or award, including
34 the interest owed on the date of judgment and the post-judgment interest, unless the parties have
35 agreed otherwise as according to ORS 24.270, in the amount of United States dollars that will pur-
36 chase that foreign money on the conversion date at a bank-offered spot rate at or near the close
37 of business on the banking day before the day of payment.

38 (g) A statement that, if the judgment debtor pays the judgment through a court under ORS
39 18.235, the payment must be in United States dollars as provided in subsection (2) of this section.

40 (h) The amount of assessed costs, disbursements and attorney fees in United States dollars, if
41 they are awarded, and any specific amounts awarded. This paragraph does not require inclusion of
42 specific amounts where such will be determined later under ORCP 68 C.

43 (i) The terms of any agreement made by the parties, before the entry of the judgment, to vary
44 the effect of ORS 24.260 to 24.335.

45 (7) If a contract claim is of the type covered by ORS 24.280 (1) or (2), the judgment or award

1 must be entered for the amount of money stated to measure the obligation to be paid in the money
2 specified for payment or, at the option of the debtor, the number of United States dollars which will
3 purchase the computed amount of the money of payment on the conversion date at a bank-offered
4 spot rate.

5 (8) When a judgment is given on a foreign-money claim in circuit court, the clerk shall enter the
6 judgment in the register and shall note that the judgment creates a judgment lien. The judgment
7 shall have the same force and effect as any other judgment obtained in the circuit court.

8 (9) A judgment or award may be discharged by payment.

9 (10) A party seeking enforcement of a judgment entered as provided in this section shall file
10 with each request or application an affidavit or certificate executed in good faith by its counsel or
11 a bank officer, stating the rate of exchange used and how it was obtained and setting forth the
12 calculation and the amount of United States dollars that would satisfy the judgment on the date of
13 the affidavit or certificate by applying said rate of exchange. Affected court officials incur no li-
14 ability, after a filing of the affidavit or certificate, for acting as if the judgment were in the amount
15 of United States dollars stated in the affidavit or certificate. The computation contained in the af-
16 fidavit or certificate shall remain in effect for 60 days following the filing of the affidavit or certifi-
17 cate and may be recomputed before the expiration of 60 days by the filing of additional affidavits
18 or certificates provided that recomputation shall not affect any payment obtained before the filing
19 of the recomputation.

20 **SECTION 14. ORS 24.200, 24.210, 24.220, 24.230, 24.240, 24.250 and 24.255 are repealed.**

21 **SECTION 15. The section captions used in this 2009 Act are provided only for the con-**
22 **venience of the reader and do not become part of the statutory law of this state or express**
23 **any legislative intent in the enactment of this 2009 Act.**

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