Senate Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

CHAPTER 170

SENATE BILL 1447

AN ACT

AMENDING TITLE 12, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 25; RELATING TO FOREIGN COUNTRY MONEY JUDGMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 12, Arizona Revised Statutes, is amended by adding chapter 25, to read:

CHAPTER 25

UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT

ARTICLE 1. GENERAL PROVISIONS

12-3251. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "FOREIGN COUNTRY" MEANS A GOVERNMENT OTHER THAN:

(a) THE UNITED STATES.

(b) A STATE, DISTRICT, COMMONWEALTH, TERRITORY OR INSULAR POSSESSION OF THE UNITED STATES.

(c) ANY OTHER GOVERNMENT WITH REGARD TO WHICH THE DECISION IN THIS STATE AS TO WHETHER TO RECOGNIZE A JUDGMENT OF THAT GOVERNMENT'S COURTS IS INITIALLY SUBJECT TO DETERMINATION UNDER THE FULL FAITH AND CREDIT CLAUSE OF THE UNITED STATES CONSTITUTION.

2. "FOREIGN-COUNTRY JUDGMENT" MEANS A JUDGMENT OF A COURT OF A FOREIGN COUNTRY.

12-3252. Applicability of chapter

A. THIS CHAPTER APPLIES TO A FOREIGN-COUNTRY JUDGMENT THAT GRANTS OR DENIES THE RECOVERY OF A SUM OF MONEY AND, UNDER THE LAW OF THE FOREIGN COUNTRY WHERE RENDERED, IS FINAL, CONCLUSIVE AND ENFORCEABLE.

B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THIS CHAPTER DOES NOT APPLY TO A JUDGMENT THAT EITHER:

1. GRANTS OR DENIES THE RECOVERY OF A SUM OF MONEY IF IT IS ANY OF THE FOLLOWING:

(a) A JUDGMENT FOR TAXES.

(b) A FINE OR OTHER PENALTY.

(c) A JUDGMENT FOR DIVORCE, SUPPORT OR MAINTENANCE OR OTHER JUDGMENT RENDERED IN CONNECTION WITH DOMESTIC RELATIONS.

2. ORIGINATES FROM A FOREIGN COUNTRY THAT HAS NOT ADOPTED OR ENACTED A RECIPROCAL LAW RELATED TO FOREIGN-COUNTRY MONEY JUDGMENTS THAT IS SIMILAR TO THIS CHAPTER.

C. THE PARTY SEEKING RECOGNITION OF A FOREIGN-COUNTRY JUDGMENT HAS THE BURDEN OF ESTABLISHING THAT THIS CHAPTER APPLIES TO THE FOREIGN-COUNTRY JUDGMENT.

12-3253. Recognition of foreign-country judgments; personal jurisdiction

A. EXCEPT AS PROVIDED IN SUBSECTIONS B AND C OF THIS SECTION, A COURT SHALL RECOGNIZE A FOREIGN-COUNTRY JUDGMENT TO WHICH THIS CHAPTER APPLIES.

B. A COURT MAY NOT RECOGNIZE A FOREIGN-COUNTRY JUDGMENT IF ANY OF THE FOLLOWING APPLIES:

1. THE JUDGMENT WAS RENDERED UNDER A JUDICIAL SYSTEM THAT DOES NOT PROVIDE IMPARTIAL TRIBUNALS OR PROCEDURES COMPATIBLE WITH THE REQUIREMENTS OF DUE PROCESS OF LAW.

2. THE FOREIGN COURT DID NOT HAVE PERSONAL JURISDICTION OVER THE DEFENDANT.

3. THE FOREIGN COURT DID NOT HAVE JURISDICTION OVER THE SUBJECT MATTER.

C. A COURT MAY CHOOSE TO NOT RECOGNIZE A FOREIGN-COUNTRY JUDGMENT IF ANY OF THE FOLLOWING APPLIES:

1. THE DEFENDANT IN THE PROCEEDING IN THE FOREIGN COURT DID NOT RECEIVE NOTICE OF THE PROCEEDING IN SUFFICIENT TIME TO ENABLE THE DEFENDANT TO DEFEND.

2. THE JUDGMENT WAS OBTAINED BY FRAUD THAT DEPRIVED THE LOSING PARTY OF AN ADEQUATE OPPORTUNITY TO PRESENT ITS CASE.

3. THE JUDGMENT OR THE CAUSE OF ACTION ON WHICH THE JUDGMENT IS BASED IS REPUGNANT TO THE PUBLIC POLICY OF THIS STATE OR OF THE UNITED STATES.

4. THE JUDGMENT CONFLICTS WITH ANOTHER FINAL AND CONCLUSIVE JUDGMENT.

5. THE PROCEEDING IN THE FOREIGN COURT WAS CONTRARY TO AN AGREEMENT BETWEEN THE PARTIES UNDER WHICH THE DISPUTE IN QUESTION WAS TO BE DETERMINED OTHERWISE THAN BY PROCEEDINGS IN THAT FOREIGN COURT.

6. IN THE CASE OF JURISDICTION BASED ONLY ON PERSONAL SERVICE, THE FOREIGN COURT WAS A SERIOUSLY INCONVENIENT FORUM FOR THE TRIAL OF THE ACTION.

7. THE JUDGMENT WAS RENDERED IN CIRCUMSTANCES THAT RAISE SUBSTANTIAL DOUBT ABOUT THE INTEGRITY OF THE RENDERING COURT WITH RESPECT TO THE JUDGMENT.

8. THE SPECIFIC PROCEEDING IN THE FOREIGN COURT LEADING TO THE JUDGMENT WAS NOT COMPATIBLE WITH THE REQUIREMENTS OF DUE PROCESS OF LAW.

D. A PARTY CONTESTING THE RECOGNITION OF A FOREIGN-COUNTRY JUDGMENT HAS THE BURDEN OF ESTABLISHING THAT A GROUND FOR NONRECOGNITION PURSUANT TO SUBSECTION B OR C OF THIS SECTION EXISTS.

E. A FOREIGN-COUNTRY JUDGMENT MAY NOT BE REFUSED RECOGNITION FOR LACK OF PERSONAL JURISDICTION IF ANY OF THE FOLLOWING APPLIES:

1. THE DEFENDANT WAS SERVED WITH PROCESS PERSONALLY IN THE FOREIGN COUNTRY.

2. THE DEFENDANT VOLUNTARILY APPEARED IN THE PROCEEDING, OTHER THAN FOR THE PURPOSE OF PROTECTING PROPERTY SEIZED OR THREATENED WITH SEIZURE IN THE PROCEEDING OR OF CONTESTING THE JURISDICTION OF THE COURT OVER THE DEFENDANT.

3. THE DEFENDANT, BEFORE THE COMMENCEMENT OF THE PROCEEDING, HAD AGREED TO SUBMIT TO THE JURISDICTION OF THE FOREIGN COURT WITH RESPECT TO THE SUBJECT MATTER INVOLVED.

4. THE DEFENDANT WAS DOMICILED IN THE FOREIGN COUNTRY WHEN THE PROCEEDING WAS INSTITUTED OR WAS A CORPORATION OR OTHER FORM OF BUSINESS ORGANIZATION THAT HAD ITS PRINCIPAL PLACE OF BUSINESS IN, OR WAS ORGANIZED UNDER THE LAWS OF, THE FOREIGN COUNTRY.

5. THE DEFENDANT HAD A BUSINESS OFFICE IN THE FOREIGN COUNTRY AND THE PROCEEDING IN THE FOREIGN COURT INVOLVED A CAUSE OF ACTION ARISING OUT OF BUSINESS DONE BY THE DEFENDANT THROUGH THAT OFFICE IN THE FOREIGN COUNTRY.

6. THE DEFENDANT OPERATED A MOTOR VEHICLE OR AIRPLANE IN THE FOREIGN COUNTRY AND THE PROCEEDING INVOLVED A CAUSE OF ACTION ARISING OUT OF THAT OPERATION.

F. THE COURT MAY RECOGNIZE A BASIS FOR PERSONAL JURISDICTION THAT IS NOT LISTED IN SUBSECTION E OF THIS SECTION AS SUFFICIENT TO SUPPORT A FOREIGN-COUNTRY JUDGMENT.

12-3254. Procedure for recognition of a foreign-country judgment; effect of recognition of a foreign-country judgment; stay of proceedings; statute of limitations

A. IF RECOGNITION OF A FOREIGN-COUNTRY JUDGMENT IS SOUGHT AS AN ORIGINAL MATTER, THE ISSUE OF RECOGNITION IS RAISED BY FILING AN ACTION SEEKING RECOGNITION OF THE FOREIGN-COUNTRY JUDGMENT. IF RECOGNITION OF A FOREIGN-COUNTRY JUDGMENT IS SOUGHT IN A PENDING ACTION, THE ISSUE OF RECOGNITION IS RAISED BY COUNTERCLAIM, CROSS-CLAIM OR AFFIRMATIVE DEFENSE.

B. IF THE COURT IN A PROCEEDING UNDER SUBSECTION A OF THIS SECTION FINDS THAT THE FOREIGN-COUNTRY JUDGMENT IS ENTITLED TO RECOGNITION UNDER THIS CHAPTER, TO THE EXTENT THAT THE FOREIGN-COUNTRY JUDGMENT GRANTS OR DENIES RECOVERY OF A SUM OF MONEY, THE FOREIGN-COUNTRY JUDGMENT IS BOTH OF THE FOLLOWING:

1. CONCLUSIVE BETWEEN THE PARTIES TO THE SAME EXTENT AS THE JUDGMENT OF A SISTER STATE ENTITLED TO FULL FAITH AND CREDIT IN THIS STATE WOULD BE CONCLUSIVE.

2. ENFORCEABLE IN THE SAME MANNER AND TO THE SAME EXTENT AS A JUDGMENT RENDERED IN THIS STATE.

C. IF A PARTY ESTABLISHES THAT AN APPEAL FROM A FOREIGN-COUNTRY JUDGMENT IS PENDING OR WILL BE TAKEN, THE COURT MAY STAY ANY PROCEEDINGS WITH REGARD TO THE FOREIGN-COUNTRY JUDGMENT UNTIL THE APPEAL IS CONCLUDED, THE TIME FOR APPEAL EXPIRES OR THE APPELLANT HAS HAD SUFFICIENT TIME TO PROSECUTE THE APPEAL AND HAS FAILED TO DO SO.

D. AN ACTION TO RECOGNIZE A FOREIGN-COUNTRY JUDGMENT MUST BE COMMENCED WITHIN THE EARLIER OF THE TIME DURING WHICH THE FOREIGN-COUNTRY JUDGMENT IS EFFECTIVE IN THE FOREIGN COUNTRY OR FIFTEEN YEARS AFTER THE DATE THAT THE FOREIGN-COUNTRY JUDGMENT BECAME EFFECTIVE IN THE FOREIGN COUNTRY.

Sec. 2. Applicability

This act applies to actions commenced on or after the effective date of this act in which the issue of recognition of a foreign-country judgment is raised.

APPROVED BY THE GOVERNOR APRIL 1, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 2, 2015.

Passed the House March 25, 2015,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate February 19, 2015,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30th day of March, 2015,

at 2:11 o'clock P. M.

Secretary to the Governor

Approved this 1st day of

April, 2015,

at 2:05 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 2 day of April, 2015,

at 9:00 o'clock A M.

Michele Reagan
Secretary of State

S.B. 1447