

# ASSEMBLY, No. 2977

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 16, 2016

**Sponsored by:**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Assemblyman CRAIG J. COUGHLIN**

**District 19 (Middlesex)**

**Co-Sponsored by:**

**Assemblywoman Pinkin**

**SYNOPSIS**

Revises law concerning foreign country money-judgment recognition.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/28/2016)**

1 AN ACT concerning foreign country money-judgments,  
2 supplementing Title 2A of the New Jersey Statutes, and  
3 repealing P.L.1997, c.96.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7

8 1. This act shall be known and may be cited as the “Foreign  
9 Country Money-Judgments Recognition Act of 2015.”

10

11 2. As used in this act:

12 “Foreign country” means a government other than:

13 (1) the United States;

14 (2) a state, district, commonwealth, territory, or insular  
15 possession of the United States; or

16 (3) any other government with regard to which the decision in  
17 this State as to whether to recognize a judgment of that  
18 government’s courts is initially subject to determination under the  
19 Full Faith and Credit Clause of the U.S. Const., Art.IV, Sec.1.

20 “Foreign-country judgment” means a judgment of a court of a  
21 foreign country.

22

23 3. a. Except as otherwise provided in subsection b. of this  
24 section, this act shall apply to a foreign-country judgment to the  
25 extent that the judgment:

26 (1) grants or denies recovery of a sum of money; and

27 (2) under the law of the foreign country where rendered, is final,  
28 conclusive, and enforceable.

29 b. This act shall not apply to a foreign-country judgment, even  
30 if the judgment grants or denies recovery of a sum of money, to the  
31 extent that the judgment is:

32 (1) a judgment for taxes;

33 (2) a fine or other penalty; or

34 (3) a judgment for divorce, support, or maintenance, or other  
35 judgment rendered in connection with domestic relations.

36 c. A party seeking recognition of a foreign-country judgment  
37 shall have the burden of establishing that this act applies to the  
38 foreign-country judgment.

39

40 4. a. Except as otherwise provided in subsections b. and c. of  
41 this section, a court of this State shall recognize a foreign-country  
42 judgment to which this act applies.

43 b. A court of this State shall not recognize a foreign-country  
44 judgment if:

45 (1) the judgment was rendered under a judicial system that does  
46 not provide impartial tribunals or procedures compatible with the  
47 requirements of due process of law, as determined by the court  
48 using standards developed by the American Law Institute and the

1 International Institute for the Unification of Private Law to govern  
2 resolution of transnational disputes;

3 (2) the foreign court did not have personal jurisdiction over the  
4 defendant; or

5 (3) the foreign court did not have jurisdiction over the subject  
6 matter.

7 c. A court of this State may determine, in its discretion, not to  
8 recognize a foreign-country judgment if:

9 (1) the defendant in the proceeding in the foreign court did not  
10 receive notice of the proceeding in sufficient time to enable the  
11 defendant to defend;

12 (2) the judgment was obtained by fraud that deprived the losing  
13 party of an adequate opportunity to present its case;

14 (3) the judgment or the cause of action on which the judgment is  
15 based is repugnant to the public policy of this State or of the United  
16 States;

17 (4) the judgment conflicts with another final and conclusive  
18 judgment;

19 (5) the proceeding in the foreign court was contrary to an  
20 agreement between the parties under which the dispute in question  
21 was to be determined otherwise than by proceedings in that foreign  
22 court;

23 (6) in the case of jurisdiction based only on personal service, the  
24 foreign court was a seriously inconvenient forum for the trial of the  
25 action;

26 (7) the judgment was rendered in circumstances that raise  
27 substantial doubt about the integrity of the rendering court with  
28 respect to the judgment; or

29 (8) the specific proceeding in the foreign court leading to the  
30 judgment was not compatible with the requirements of due process  
31 of law, as determined by the court using standards developed by the  
32 American Law Institute and the International Institute for the  
33 Unification of Private Law to govern resolution of transnational  
34 disputes.

35 d. A party resisting recognition of a foreign-country judgment  
36 shall have the burden of establishing that a ground for  
37 nonrecognition stated in subsections b. or c. of this section exists,  
38 except that where a foreign-country judgment has been rendered in  
39 default of appearance of the defendant, the party seeking  
40 recognition shall have the burden of establishing that:

41 (1) the rendering court had jurisdiction over the defendant in  
42 accordance with the law of the country of origin of judgment;

43 (2) the defendant was served with initiating process in  
44 accordance with the law of the country of origin; and

45 (3) the rendering court had jurisdiction over the defendant on a  
46 basis provided pursuant to section 5 of this act.

1       5. a. A foreign-country judgment shall not be refused  
2 recognition for lack of personal jurisdiction if:

3       (1) the defendant was served with process personally in the  
4 foreign country;

5       (2) the defendant, before the commencement of the proceeding,  
6 had agreed to submit to the jurisdiction of the foreign court with  
7 respect to the subject matter involved;

8       (3) the defendant was domiciled in the foreign country when the  
9 proceeding was instituted or was a corporation or other form of  
10 business organization that had its principal place of business in, or  
11 was organized under the laws of, the foreign country;

12       (4) the defendant had a business office in the foreign country  
13 and the proceeding in the foreign court involved a cause of action  
14 arising out of business done by the defendant through that office in  
15 the foreign country; or

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

19       b. The list of bases for personal jurisdiction in subsection a. of  
20 this section shall not be construed to be exclusive. The courts of  
21 this State may recognize bases for personal jurisdiction other than  
22 those listed in subsection a. of this section as sufficient to support a  
23 foreign-country judgment, as long as the exercise of personal  
24 jurisdiction in the foreign country is compatible with the Due  
25 Process Clause of the U.S. Const., Amend.V and Amend.XIV.

26       c. An appearance by the defendant in the country of origin, or  
27 an unsuccessful objection to the jurisdiction of the rendering court,  
28 shall not deprive the defendant of the right to resist recognition  
29 under this section, but factual determinations by the rendering court  
30 concerning jurisdiction shall be binding on the defendant.

31

32       6. a. If recognition of a foreign-country judgment is sought as  
33 an original matter, the issue of recognition shall be raised by filing  
34 an action seeking recognition of the foreign-country judgment.

35       b. If recognition of a foreign-country judgment is sought in a  
36 pending action, the issue of recognition may be raised by  
37 counterclaim, cross-claim, or affirmative defense.

38       c. A party against whom a foreign-country judgment is entered  
39 may file an action for a declaration that the foreign-country  
40 judgment shall not be subject to recognition. For the purposes of  
41 this section, a foreign-country judgment shall not be subject to  
42 recognition if a ground for nonrecognition stated in subsections b.  
43 or c. of section 4 of this act exists. The party bringing an action  
44 under this section shall have the burden of establishing a ground for  
45 nonrecognition under subsections b. or c. of section 4 of this act.

46

47       7. If the court in a proceeding finds that the foreign-country  
48 judgment is entitled to recognition under this act then, to the extent

1 that the foreign-country judgment grants or denies recovery of a  
2 sum of money, the foreign-country judgment shall be:

3 a. conclusive between the parties to the same extent as the  
4 judgment of a sister state entitled to full faith and credit in this State  
5 would be conclusive; and

6 b. enforceable in the same manner and to the same extent as a  
7 judgment rendered in this State.

8  
9 8. If a party establishes that an appeal from a foreign-country  
10 judgment is pending or will be taken, the court may stay any  
11 proceedings with regard to the foreign-country judgment until the  
12 appeal is concluded, the time for appeal expires, or the appellant  
13 has had sufficient time to prosecute the appeal and has failed to do  
14 so.

15  
16 9. An action to recognize a foreign-country judgment shall not  
17 be commenced before the foreign-country judgment becomes  
18 effective in the foreign country, or after 15 years from the date that  
19 the foreign-country judgment became effective in the foreign  
20 country.

21  
22 10. In applying and construing this uniform act, consideration  
23 shall be given to the need to promote uniformity of the law with  
24 respect to its subject matter among states that enact it.

25  
26 11. This act shall not prevent the recognition under principles of  
27 comity or otherwise of a foreign-country judgment not within the  
28 scope of this act.

29  
30 12. P.L.1997, c.96 (C.2A:49A-16 et seq.) is repealed.

31  
32 13. This act shall take effect immediately, and shall apply to all  
33 actions commenced on or after the effective date of this act in  
34 which the issue of recognition of a foreign-country judgment is  
35 raised.

36  
37

38 STATEMENT

39  
40 This bill, entitled the “Foreign Country Money-Judgments  
41 Recognition Act of 2015,” replaces existing statutes concerning the  
42 recognition of foreign country money-judgments.

43 This bill applies to certain foreign-country judgments that grant  
44 or deny recovery of a sum of money and, under the law of the  
45 foreign country where rendered, are final, conclusive, and  
46 enforceable. The bill does not apply to a foreign-country judgment  
47 to the extent that the judgment is: a judgment for taxes; a fine or

1 other penalty; or a judgment for divorce, support, or maintenance,  
2 or other judgment rendered in connection with domestic relations.

3 Under the bill, a party seeking recognition of a foreign-country  
4 judgment has the burden of establishing that the bill applies to the  
5 foreign-country judgment.

6 The bill provides that courts of this State must recognize foreign-  
7 country judgments to which the bill applies, and provides for  
8 certain circumstances in which courts may not or need not  
9 recognize foreign-country judgments that would otherwise fall  
10 under the scope of the bill. The bill provides that a party resisting  
11 recognition of a foreign-country judgment has the burden of  
12 establishing that a ground for nonrecognition exists, except that  
13 where a foreign-country judgment has been rendered in default of  
14 appearance of the defendant, the party seeking recognition has the  
15 burden of establishing certain factors, such as jurisdiction and  
16 service of process.

17 The bill provides for circumstances in which a foreign-country  
18 judgment may not be refused recognition for lack of personal  
19 jurisdiction, and also provides that the courts of this State may  
20 recognize bases for personal jurisdiction other than those listed in  
21 the bill as sufficient to support a foreign-country judgment, as long  
22 as the exercise of personal jurisdiction in the foreign country is  
23 compatible with the Due Process Clause of the United States  
24 Constitution.

25 The bill provides that if the court in a proceeding finds that the  
26 foreign-country judgment is entitled to recognition then, to the  
27 extent that the foreign-country judgment grants or denies recovery  
28 of a sum of money, the foreign-country judgment is conclusive  
29 between the parties to the same extent as the judgment of a sister  
30 state entitled to full faith and credit in this State would be  
31 conclusive and is enforceable in the same manner and to the same  
32 extent as a judgment rendered in this State.

33 The bill establishes procedures for courts issuing a stay of  
34 proceedings regarding foreign-country judgments which have  
35 appeals pending.

36 Under the bill, an action to recognize a foreign-country judgment  
37 shall not be commenced before the foreign-country judgment  
38 becomes effective in the foreign country, or after 15 years from the  
39 date that the foreign-country judgment became effective in the  
40 foreign country.

41 The bill does not prevent the recognition under principles of  
42 comity or otherwise of a foreign-country judgment not within the  
43 scope of the bill.

44 The bill also repeals existing statutes concerning foreign country  
45 money-judgment recognition, the "Foreign Country Money-  
46 Judgments Recognition Act," P.L.1997, c.96 (C.2A:49A-16 et seq.).