HOUSE . . . . . No. 40

So much of the recommendations of the Commission on Uniform State Laws (House, No. 31) as relates to revising the law recognizing foreign country money judgments. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act revising the law recognizing foreign country money judgments.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 23A of chapter 235 of the General Laws is hereby repealed.

SECTION 2. The General Laws are hereby amended by in chapter 235 in place of section 23A the following sections:--

SECTION 23A. SHORT TITLE. Sections 23A through 23K of this chapter may be cited as the Uniform Foreign-Country Money Judgments Recognition Act.

SECTION 23B. DEFINITIONS. In this Act:

(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; or

11 (C) any other government with regard to which the decision in this Commonwealth as to
12 whether to recognize a judgment of that government's courts is initially subject to determination
13 under the Full Faith and Credit Clause of the United States Constitution. (2) "Foreign-country
14 judgment" means a judgment of a court of a foreign country.

15 SECTION 23C. APPLICABILITY.

16 (a) Except as otherwise provided in subsection (b), this Act applies to a foreign-country
17 judgment to the extent that the judgment:

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

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

21 (b) This Act does not apply to a foreign-country judgment, even if the judgment
22 grants or denies recovery of a sum of money, to the extent that the judgment is:

23 (1) a judgment for taxes;

24 (2) a fine or other penalty; or

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

27 (c) A party seeking recognition of a foreign-country judgment has the burden of
28 establishing that this Act applies to the foreign-country judgment.

29 SECTION 23D. STANDARDS FOR RECOGNITION OF FOREIGN-COUNTRY
30 JUDGMENT.

31 (a) Except as otherwise provided in subsections (b) and (c), a court of this
32 Commonwealth shall recognize a foreign-country judgment to which this Act applies.

33 (b) A court of this Commonwealth may not recognize a foreign-country judgment if:

34 (1) the judgment was rendered under a judicial system that does not
35 provide impartial tribunals or procedures compatible with the requirements of due process of
36 law;

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

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

39 (c) A court of this Commonwealth need not recognize a foreign-country judgment if:

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

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

44 (3) the judgment or the cause of action on which the judgment is based is
45 repugnant to the public policy of this Commonwealth or of the United States;

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

47 (5) the proceeding in the foreign court was contrary to an agreement
48 between the parties under which the dispute in question was to be determined otherwise than by
49 proceedings in that foreign court;

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

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

54 (8) the specific proceeding in the foreign court leading to the judgment
55 was not compatible with the requirements of due process of law.

56 (d) A party resisting recognition of a foreign-country judgment has the burden of
57 establishing that a ground for nonrecognition stated in subsection (b) or (c) exists.

58 SECTION 23E. PERSONAL JURISDICTION.

59 (a) A foreign-country judgment may not be refused recognition for lack of
60 personal jurisdiction if:

61 (1) the defendant was served with process personally in the foreign
62 country;

63 (2) the defendant voluntarily appeared in the proceeding, other than for
64 the purpose of protecting property seized or threatened with seizure in the proceeding or of
65 contesting the jurisdiction of the court over the defendant;

66 (3) the defendant, before the commencement of the proceeding, had agreed to submit to
67 the jurisdiction of the foreign court with respect to the subject matter involved;

68 (4) the defendant was domiciled in the foreign country when the
69 proceeding was instituted or was a corporation or other form of business organization that had its
70 principal place of business in, or was organized under the laws of, the foreign country;

71 (5) the defendant had a business office in the foreign country and the
72 proceeding in the foreign court involved a cause of action arising out of business done by the
73 defendant through that office in the foreign country; or

74 (6) the defendant operated a motor vehicle or airplane in the foreign
75 country and the proceeding involved a cause of action arising out of that operation.

76 (b) The list of bases for personal jurisdiction in subsection (a) is not exclusive.
77 The courts of this Commonwealth may recognize bases of personal jurisdiction other than those
78 listed in subsection(a) as sufficient to support a foreign-country judgment.

79 SECTION 23F. PROCEDURE FOR RECOGNITION OF FOREIGN-COUNTRY
80 JUDGMENT.

81 (a) If recognition of a foreign-country judgment is sought as an original matter,
82 the issue of recognition shall be raised by filing an action seeking recognition of the foreign-
83 country judgment.

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

86 SECTION 23G. EFFECT OF RECOGNITION OF FOREIGN-COUNTRY
87 JUDGMENT. If the court in a proceeding under section 23F finds that the foreign-country

88 judgment is entitled to recognition under this Act then, to the extent that the foreign-country
89 judgment grants or denies recovery of a sum of money, the foreign-country judgment is:

90 (1) conclusive between the parties to the same extent as the judgment of a sister State
91 entitled to full faith and credit in this Commonwealth would be conclusive; and

92 (2) enforceable in the same manner and to the same extent as a judgment rendered
93 in this Commonwealth.

94 SECTION 23H. STAY OF PROCEEDINGS PENDING APPEAL OF FOREIGN-
95 COUNTRY JUDGMENT. If a party establishes that an appeal from a foreign-country judgment
96 is pending or will be taken, the court may stay any proceedings with regard to the foreign-
97 country judgment until the appeal is concluded, the time for appeal expires, or the appellant has
98 had sufficient time to prosecute the appeal and has failed to do so.

99 SECTION 23I. STATUTE OF LIMITATIONS. An action to recognize a foreign-
100 country judgment must be commenced within the earlier of the time during which the foreign-
101 country judgment is effective in the foreign country or 15 years from the date that the foreign-
102 country judgment became effective in the foreign country.

103 SECTION 23J. UNIFORMITY OF INTERPRETATION. In applying and construing
104 this Act, consideration must be given to the need to promote uniformity of the law with respect
105 to its subject matter among States that enact it.

106 SECTION 23K. SAVING CLAUSE. This Act does not prevent the recognition under
107 principles of comity or otherwise of a foreign-country judgment not within the scope of this Act.

108 SECTION 3. This Act takes effect on July first, two thousand and sixteen, and applies to
109 all actions commenced on or after the effective date of this Act in which the issue of recognition
110 of a foreign-country judgment is raised.