

NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
42ND CONSTITUTIONAL REGULAR SESSION, 2021



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

UNIFORM FOREIGN MONEY-JUDGMENT
(AMENDMENT) ACT 2021

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Republic of the Marshall Islands
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UNIFORM FOREIGN MONEY-JUDGMENT
(AMENDMENT) ACT 2021

A BILL FOR AN ACT to amend Section 402, 403, 404, 405, 406 of the Uniform Foreign Money-Judgment Recognition Act, 30 MIRC Ch.4, and to add a new Section 408 to the Act for the following reasons: (1) to clarify the language of the Act; (2) to expressly provide that the person seeking recognition of a foreign judgment has the burden to prove the judgment comes under the Act, (3) to expressly provide that the person raising a ground for non-recognition has the burden to prove it, and (4) to provide a statute of limitations for enforcement of foreign judgments.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

§101. Short title.

This Act may be cited as the *Uniform Foreign Money-Judgment (Amendment) Act 2021*

§102. Amendments.

(1) Section 402 of the Uniform Foreign Money-Judgment Act, 30 MIRC Ch.4, is amended to read as follows:

§402. Definitions.

As used in this Chapter.:

(1) “foreign ~~state~~ country” means ~~any governmental unit~~ a government other than the Republic of the Marshall Islands, or political subdivision thereof;

- (2) ~~“foreign judgment” means any judgment of a foreign nation country, or political subdivision or territory or individual state thereof, granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty, or a judgment for support in matrimonial matters; and~~
- (3) ~~“foreign court” means a court of a foreign country.~~

(2) Section 403 of the Uniform Foreign Money-Judgment Act, 30 MIRC Ch.4, is amended to read as follows:

§403. Applicability.

~~This Chapter applies to any foreign judgment that is final and conclusive and enforceable where rendered even though an appeal therefrom is pending, or subject to appeal.~~

(1) Except as otherwise provided in Subsection (2) of this Chapter, this Chapter applies to a foreign judgment to the extent that the foreign judgment:

- a. Grant or denies recovery of a sum of money; and
- b. Under the law of the foreign country where rendered, is final, conclusive and enforceable, even though an appeal therefrom is pending, or subject to appeal.

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

- a. a judgment for taxes;
- b. a fine or other penalty; or
- ~~c. a judgment for support in matrimonial matters.~~

(3) The party seeking recognition of a foreign judgment has the burden of establishing that this Chapter applies to the foreign judgment.

(3). Section 404 of the Uniform Foreign Money-Judgment Act, 30 MIRC Ch.4, is amended to read as follows:

§404. Recognition and Enforcement.

1 Except as provided in Section 405, ~~a foreign judgment meeting the~~
2 ~~requirements of section 403 is conclusive between the parties to the extent~~
3 ~~that it grants or denies recovery of a sum of money~~ a court of the Republic
4 recognize and enforce a foreign judgment to which this Chapter applies.
5

6 (4) *Section 405 of the Uniform Foreign Money-Judgment Act, 30 MIRC Ch.4, is*
7 *amended to read as follows:*

8 **§405. Mandatory and Discretionary Grounds for Non-recognition.**

9 (1) A court of the Republic shall not recognize a foreign judgment is not
10 conclusive if:

- 11 a. The judgment was rendered under a system which does not
12 provided impartial tribunals or procedures compatible with
13 the requirements of due process of law;
14 b. The foreign court does not have personal jurisdiction over the
15 defendant; or
16 c. The foreign court does not have jurisdiction over the subject
17 matter.

18 (2) A court of the Republic need recognize a foreign judgment need not
19 be recognized if:

- 20 a. The defendant in the proceedings in the foreign court did not
21 receive notice of the proceedings in sufficient time to enable
22 him to defend;
23 b. The judgment was obtained by fraud that deprived the losing
24 party of an adequate opportunity to present its case;
25 c. The cause of action on which the judgment is based is
26 repugnant to the public policy of the Republic;
27 d. The judgment conflicts with another final and conclusive
28 judgment;
29 e. The proceeding in the foreign court was contrary to an
30 agreement between the parties under which dispute in
31 question was to be settled otherwise than by proceedings in
32 the court;
33 f. In the case of jurisdiction based only on personal service, the
34 foreign court was a seriously inconveniently forum for the trial
35 of the action; ~~or~~

- g. The judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment;
- h. The specific proceeding in the foreign country leading to the foreign judgment was not compatible with the requirements of due process of law; or
- (gi) the foreign state country does not recognize or enforce the judgments of any other foreign nation.

(3) The party resisting recognition of the foreign judgment has the burden of establishing that one of the grounds for non-recognition stated in Subsection (1) or (2) of this Section exists.

(5) *Section 406 of the Uniform Foreign Money-Judgment Act, 30 MIRC Ch.4, is amended to read as follows:*

§406. Personal Jurisdiction.

- (1) The foreign judgment shall not be refused recognition for lack of personal jurisdiction if:
 - a. The defendant was served personally in the foreign state country;
 - b. The defendant voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or a contesting the jurisdiction of the court over him;
 - c. The defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;
 - d. The defendant was domiciled in the foreign state country when the proceedings were instituted, or, being a body corporate had its principle place of business, was incorporated, or had otherwise acquired corporate status in the foreign state country;
 - e. The defendant had a business office in the foreign state country and the proceeding in the foreign country involved a cause of action arising out of business done by the defendant through that office in the foreign state, or

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f. The defendant operated a motor vehicle or airplane in the foreign state and proceedings involved a cause of action arising out of such operation.

(2) The courts of the Republic may recognize other bases of jurisdiction.

(6) Section 408 of the Uniform Foreign Money-Judgment Act, 30 MIRC Ch.4, are re-number Sections 409 and 410, and a new Section 408 is inserted to read as follows:

§408. Statute of Limitations.

An action to recognize a foreign country judgment shall be commenced within the earlier of the time during which the foreign judgment is effective in the foreign country or fifteen years from the date that the foreign country judgment became effective in the foreign country.

§4089. Uniformity of Interpretation.

This Chapter shall be so construed as to effectuate its general purpose to make uniform the law of those jurisdictions which enact it.

§4109. Savings Clause.

This Act does not prevent the recognition of a foreign judgment in situation not covered by this Act.

§103. Effective date.

This Act shall take effect on the date of certification in accordance with Article IV, Section 21 of the Constitution.

1 NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
2 42ND CONSTITUTIONAL REGULAR SESSION, 2021

UNIFORM FOREIGN MONEY-JUDGMENT
(AMENDMENT) ACT 2021

3 BILL SUMMARY

4 The Uniform Foreign Money-Judgment Recognition Act, 30 MIRC Ch. 4, makes
5 provision for the courts of the Republic to recognize and enforce foreign money
6 judgments consistent with international law and practice.

7
8 The purpose of this Bill is to amend Section 402, 403, 404, 405 and 406 of the Uniform
9 Foreign Money-Judgment Recognition Act, 30 MIRC Ch. 4, and to add a new Section
10 408 to the Act as follows:

- 11
- 12 - In Section 402, as amended, defines “foreing country,” in place of “foreign
13 state,” and defines “foreign judgment” in terms of their common meanings,
14 putting the more substantive limiting language in Section 403.
 - 15 - Section 403, as amended, limits the application of the Act to judgments for
16 money, except judgments for taxes, fines or penalties, and support in
17 matrimonial matters. Also, Section 403, as amended, expressly puts on the
18 party seeking recognition and enforcement of a foreign judgment the burden
19 of establishing the Act applies to the judgment.
 - 20 - Section 404, as amended, states that the courts of the Republic will recognize
21 and enforce money-judgments to which the Act applies (as described in
22 Section 403), except as set forth in Section 405.
 - 23 - Section 405, as amended, sets forth mandatory and discretionary grounds for
24 non-recognition. The grounds for mandatory non-recognition include the
25 foreign court’s procedures are not compatible with dues process, the foreign
26 court did not have personal jurisdiction over the defendant, or the foreign
27 court did not have jurisdiction over the subject matter. The grounds for
28 discretionary non-recognition include the defendant did not receive notice of
29 proceedings in the foreign court in time to defend, the judgment was
30 obtained by fraud, the cause of action on which the judgment is based against
31 the public policy of the Republic, the judgment conflicts with another final
32 judgment, and others. Also, Section 405, as amended, expressly puts on the

1 party resisting recognition and enforcement of the foreign money-judgment
2 the burden of establishing one of the grounds for non-recognition.

3 - Section 406, as amended, changes the term "foreign state" to "foreign
4 country" consistent with the amendment of definitions in Section 402 to avoid
5 the use of foreign affairs jargon.

6 - The new Section 408 includes a statute of limitations for enforcement of
7 foreign judgments, that is, the limitation on judgments in the foreign country
8 or 15 years, whichever is shorter.

9 These amendments are consistent with international law and 2011 recommendations
10 for the Uniform Foreign Money-Judgment Recognition Act for States of the United
11 States of America. Accordingly, the Act as amended will foster both international
12 commerce and the recognition of the judgments of the Republic's courts in foreign
13 jurisdictions.

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