

AMENDED IN ASSEMBLY MARCH 13, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 905

Introduced by Assembly Member Maienschein

February 16, 2017

An act to amend Sections 1714, 1716, 1717, 1730, 1731, 1732, 1733, 1737, and 1741 of, to amend the heading of Title 11 (commencing with Section 1710.10) of Part 3 of, to amend the heading of Chapter 1 (commencing with Section 1710.10) of Title 11 of Part 3 of, to add Section 1725 to, to add the heading of Chapter 3 (commencing with Section 1730) of Title 11 of Part 3 to, and to repeal Sections 1714 and 1742 of, and to repeal the heading of Title 11.5 (commencing with Section 1730) of Part 3 of, the Code of Civil Procedure, relating to civil procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 905, as amended, Maienschein. Money judgments of other jurisdictions.

Existing law establishes procedures for California courts to recognize money judgments of courts from other states, foreign countries, and tribal courts.

This bill would revise and recast these provisions.

Existing law, the Uniform Foreign-Country Money Judgments Recognition Act, requires a California court to recognize a foreign-country judgment unless a specified exception applies, including instances in which the foreign court lacks personal jurisdiction over the defendant.

This bill would specify that a foreign court lacks personal jurisdiction over a defendant if the court lacks personal jurisdiction under its own laws or California’s laws.

Existing law, the Tribal Court Civil Money Judgment Act, provides for the enforceability of tribal court money judgments in California, except as specified. That act, among other things, prescribes the procedure for applying for recognition and entry of a judgment based on a tribal court money judgment, and requires this application to be executed under penalty of perjury. The act provides that it will remain in effect until January 1, 2018. After that date, tribal court money judgments will be governed by the above-described Uniform Foreign-Country Money Judgments Recognition Act.

This bill would eliminate the Tribal Court Civil Money Judgment Act’s sunset date. By extending the provisions of the act, this bill would expand the scope of the crime of perjury and thus impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The heading of Title 11 (commencing with
2 Section 1710.10) of Part 3 of the Code of Civil Procedure is
3 amended to read:

4

5 TITLE 11. MONEY JUDGMENTS OF OTHER
6 JURISDICTIONS

7

8 SEC. 2. The heading of Chapter 1 (commencing with Section
9 1710.10) of Title 11 of Part 3 of the Code of Civil Procedure is
10 amended to read:

11

12 CHAPTER 1. SISTER STATE MONEY JUDGMENTS

13

1 SEC. 3. Section 1714 of the Code of Civil Procedure, as
2 amended by Section 2 of Chapter 243 of the Statutes of 2014, is
3 amended to read:

4 1714. As used in this chapter:

5 (a) “Foreign country” means a government other than any of
6 the following:

7 (1) The United States.

8 (2) A state, district, commonwealth, territory, or insular
9 possession of the United States.

10 (3) A federally recognized Indian nation, tribe, pueblo, band,
11 or Alaska Native village.

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

16 (b) “Foreign-country judgment” means a judgment of a court
17 of a foreign country.

18 SEC. 4. Section 1714 of the Code of Civil Procedure, as added
19 by Section 3 of Chapter 243 of the Statutes of 2014, is repealed.

20 SEC. 5. Section 1716 of the Code of Civil Procedure is
21 amended to read:

22 1716. (a) Except as otherwise provided in subdivisions (b),
23 (c), (d), and ~~(e)~~ (f), a court of this state shall recognize a
24 foreign-country judgment to which this chapter applies.

25 (b) A court of this state shall not recognize a foreign-country
26 judgment if any of the following apply:

27 (1) The judgment was rendered under a judicial system that
28 does not provide impartial tribunals or procedures compatible with
29 the requirements of due process of law.

30 (2) The foreign court did not have personal jurisdiction over
31 the defendant.

32 (3) The foreign court did not have jurisdiction over the subject
33 matter.

34 (c) (1) A court of this state ~~is not required to~~ shall not recognize
35 a foreign-country judgment if any of the following apply:

36 ~~(1)~~

37 (A) The defendant in the proceeding in the foreign court did not
38 receive notice of the proceeding in sufficient time to enable the
39 defendant to defend.

40 ~~(2)~~

- 1 (B) The judgment was obtained by fraud that deprived the losing
- 2 party of an adequate opportunity to present its case.
- 3 ~~(3)~~
- 4 (C) The judgment or the cause of action or claim for relief on
- 5 which the judgment is based is repugnant to the public policy of
- 6 this state or of the United States.
- 7 ~~(4) The judgment conflicts with another final and conclusive~~
- 8 ~~judgment.~~
- 9 ~~(5)~~
- 10 (D) The proceeding in the foreign court was contrary to an
- 11 agreement between the parties under which the dispute in question
- 12 was to be determined otherwise than by proceedings in that foreign
- 13 court.
- 14 ~~(6)~~
- 15 (E) In the case of jurisdiction based only on personal service,
- 16 the foreign court was a seriously inconvenient forum for the trial
- 17 of the action.
- 18 ~~(7)~~
- 19 (F) The judgment was rendered in circumstances that raise
- 20 substantial doubt about the integrity of the rendering court with
- 21 respect to the judgment.
- 22 ~~(8)~~
- 23 (G) The specific proceeding in the foreign court leading to the
- 24 judgment was not compatible with the requirements of due process
- 25 of law.
- 26 *(2) Notwithstanding an applicable ground for nonrecognition*
- 27 *under paragraph (1), the court may nonetheless recognize a*
- 28 *foreign-country judgment if the party seeking recognition of the*
- 29 *judgment demonstrates good reason to recognize the judgment*
- 30 *that outweighs the ground for nonrecognition.*
- 31 *(d) A court of this state is not required to recognize a*
- 32 *foreign-country judgment if the judgment conflicts with another*
- 33 *final and conclusive judgment.*
- 34 ~~(d)~~
- 35 (e) If the party seeking recognition of a foreign-country
- 36 judgment has met its burden of establishing recognition of the
- 37 foreign-country judgment pursuant to subdivision (c) of Section
- 38 1715, a party resisting recognition of a foreign-country judgment
- 39 has the burden of establishing that a ground for nonrecognition
- 40 stated in subdivision ~~(b)~~ or (e) (b), (c), or (d) exists.

1 (e)

2 (f) A court of this state shall not recognize a foreign-country
3 judgment for defamation if that judgment is not recognizable under
4 Section 4102 of Title 28 of the United States Code.

5 SEC. 6. Section 1717 of the Code of Civil Procedure is
6 amended to read:

7 1717. (a) For the purpose of paragraph (2) of subdivision (b)
8 of Section 1716, a foreign court lacks personal jurisdiction over a
9 defendant if either of the following conditions is met:

10 (1) The foreign court lacks a basis for exercising personal
11 jurisdiction that would be sufficient according to the standards
12 governing personal jurisdiction in this state.

13 (2) The foreign court lacks personal jurisdiction under its own
14 law.

15 (b) A foreign-country judgment shall not be refused recognition
16 for lack of personal jurisdiction under paragraph (1) of subdivision
17 (a) if any of the following apply:

18 (1) The defendant was served with process personally in the
19 foreign country.

20 (2) The defendant voluntarily appeared in the proceeding, other
21 than for the purpose of protecting property seized or threatened
22 with seizure in the proceeding or of contesting the jurisdiction of
23 the court over the defendant.

24 (3) The defendant, before the commencement of the proceeding,
25 had agreed to submit to the jurisdiction of the foreign court with
26 respect to the subject matter involved.

27 (4) The defendant was domiciled in the foreign country when
28 the proceeding was instituted or was a corporation or other form
29 of business organization that had its principal place of business
30 in, or was organized under the laws of, the foreign country.

31 (5) The defendant had a business office in the foreign country
32 and the proceeding in the foreign court involved a cause of action
33 or claim for relief arising out of business done by the defendant
34 through that office in the foreign country.

35 (6) The defendant operated a motor vehicle or airplane in the
36 foreign country and the proceeding involved a cause of action or
37 claim for relief arising out of that operation.

38 (c) The list of bases for personal jurisdiction in subdivision (b)
39 is not exclusive. The courts of this state may recognize bases of

1 personal jurisdiction other than those listed in subdivision (b) as
2 sufficient for the purposes of paragraph (1) of subdivision (a).

3 SEC. 7. Section 1725 is added to the Code of Civil Procedure,
4 to read:

5 1725. (a) If all of the following conditions are satisfied, a
6 person against whom a foreign-country defamation judgment was
7 rendered may seek declaratory relief with respect to liability for
8 the judgment or a determination that the judgment is not
9 recognizable under section 1716:

10 (1) The person is a resident or other person or entity amendable
11 to jurisdiction in this state.

12 (2) The person either has assets in this state that may be subject
13 to an enforcement proceeding to satisfy the foreign-country
14 defamation judgment or may have to take actions in this state to
15 comply with the foreign-country defamation judgment.

16 (3) The publication at issue was published in this state.

17 (b) A court of this state has jurisdiction to determine a
18 declaratory relief action or issue a determination pursuant to this
19 section and has personal jurisdiction over the person or entity who
20 obtained the foreign-country defamation judgment regardless of
21 when it was rendered. *judgment.*

22 (c) This section shall apply to a foreign-country defamation
23 judgment regardless of when it was rendered.

24 SEC. 8. The heading of Title 11.5 (commencing with Section
25 1730) of Part 3 of the Code of Civil Procedure is repealed.

26 SEC. 9. The heading of Chapter 3 (commencing with Section
27 1730) is added to Title 11 of Part 3 of the Code of Civil Procedure,
28 to read:

29
30 CHAPTER 3. TRIBAL COURT CIVIL MONEY JUDGMENT ACT

31
32 SEC. 10. Section 1730 of the Code of Civil Procedure is
33 amended to read:

34 1730. This chapter shall be known and may be cited as the
35 Tribal Court Civil Money Judgment Act.

36 SEC. 11. Section 1731 of the Code of Civil Procedure is
37 amended to read:

38 1731. (a) This chapter governs the procedures by which the
39 superior courts of the State of California recognize and enter tribal
40 court money judgments of any federally recognized Indian tribe.

1 Determinations regarding recognition and entry of a tribal court
2 money judgment pursuant to state law shall have no effect upon
3 the independent authority of that judgment. To the extent not
4 inconsistent with this chapter, the Code of Civil Procedure shall
5 apply.

6 (b) This chapter does not apply to any of the following tribal
7 court money judgments:

8 (1) For taxes, fines, or other penalties.

9 (2) For which federal law requires that states grant full faith and
10 credit recognition, including child support orders under the Full
11 Faith and Credit for Child Support Orders Act (28 U.S.C. Sec.
12 1738B).

13 (3) For which state law provides for recognition, including child
14 support orders recognized under the Uniform Child Custody
15 Jurisdiction and Enforcement Act (Part 3 (commencing with
16 Section 3400) of Division 8 of the Family Code), other forms of
17 family support orders under the Uniform Interstate Family Support
18 Act (Part 6 (commencing with Section 5700.101) of Division 9 of
19 the Family Code).

20 (4) For decedents' estates, guardianships, conservatorships,
21 internal affairs of trusts, powers of attorney, or other tribal court
22 money judgments that arise in proceedings that are or would be
23 governed by the Probate Code.

24 (c) Nothing in this chapter shall be deemed or construed to
25 expand or limit the jurisdiction of either the state or any Indian
26 tribe.

27 SEC. 12. Section 1732 of the Code of Civil Procedure is
28 amended to read:

29 1732. For purposes of this chapter:

30 (a) "Applicant" means the person or persons who can bring an
31 action to enforce a tribal court money judgment.

32 (b) "Civil action or proceeding" means any action or proceeding
33 that is not criminal, except for those actions or proceedings
34 expressly excluded by subdivision (b) of Section 1731.

35 (c) "Due process" includes, but is not limited to, the right to be
36 represented by legal counsel, to receive reasonable notice and an
37 opportunity for a hearing, to call and cross-examine witnesses,
38 and to present evidence and argument to an impartial
39 decisionmaker.

1 (d) “Good cause” means a substantial reason, taking into account
2 the prejudice or irreparable harm a party will suffer if a hearing is
3 not held on an objection or not held within the time periods
4 established by this chapter.

5 (e) “Respondent” means the person or persons against whom
6 an action to enforce a tribal court money judgment can be brought.

7 (f) “Tribal court” means any court or other tribunal of any
8 federally recognized Indian nation, tribe, pueblo, band, or Alaska
9 Native village, duly established under tribal or federal law,
10 including Courts of Indian Offenses organized pursuant to Part 11
11 of Title 25 of the Code of Federal Regulations.

12 (g) “Tribal court money judgment” means any written judgment,
13 decree, or order of a tribal court for a specified amount of money
14 that was issued in a civil action or proceeding that is final,
15 conclusive, and enforceable by the tribal court in which it was
16 issued and is duly authenticated in accordance with the laws and
17 procedures of the tribe or tribal court.

18 SEC. 13. Section 1733 of the Code of Civil Procedure is
19 amended to read:

20 1733. (a) An application for entry of a judgment under this
21 chapter shall be filed in a superior court.

22 (b) Subject to the power of the court to transfer proceedings
23 under this chapter pursuant to Title 4 (commencing with Section
24 392) of Part 2, the proper county for the filing of an application is
25 either of the following:

26 (1) The county in which any respondent resides or owns
27 property.

28 (2) If no respondent is a resident, any county in this state.

29 (c) A case in which the tribal court money judgment amounts
30 to twenty-five thousand dollars (\$25,000) or less is a limited civil
31 case.

32 SEC. 14. Section 1737 of the Code of Civil Procedure is
33 amended to read:

34 1737. (a) Any objection to the recognition and entry of the
35 tribal court money judgment shall be served and filed within 30
36 days of service of the notice of filing. If any objection is filed
37 within this time period, the superior court shall set a time period
38 for replies and set the matter for a hearing. The hearing shall be
39 held by the superior court within 45 days from the date the
40 objection is filed unless good cause exists for a later hearing. The

1 only grounds for objecting to the recognition or enforcement of a
2 tribal court money judgment are the grounds set forth in
3 subdivisions ~~(b)~~ (b), (c), and ~~(e)~~ (d).

4 (b) A tribal court money judgment shall not be recognized and
5 entered if the respondent demonstrates to the superior court that
6 at least one of the following occurred:

7 (1) The tribal court did not have personal jurisdiction over the
8 respondent.

9 (2) The tribal court did not have jurisdiction over the subject
10 matter.

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

14 (c) (1) The superior court ~~may, in its discretion,~~ shall decline
15 to recognize and enter a tribal court money judgment ~~on~~ if any one
16 of the following ~~grounds:~~ grounds applies:

17 ~~(1)~~

18 (A) The defendant in the proceeding in the tribal court did not
19 receive notice of the proceeding in sufficient time to enable the
20 defendant to defend.

21 ~~(2)~~

22 (B) The judgment was obtained by fraud that deprived the losing
23 party of an adequate opportunity to present its case.

24 ~~(3)~~

25 (C) The judgment or the cause of action or claim for relief on
26 which the judgment is based is repugnant to the public policy of
27 the state or of the United States.

28 ~~(4) The judgment conflicts with another final and conclusive~~
29 ~~judgment.~~

30 ~~(5)~~

31 (D) The proceeding in the tribal court was contrary to an
32 agreement between the parties under which the dispute in question
33 was to be determined otherwise than by proceedings in that tribal
34 court.

35 ~~(6)~~

36 (E) In the case of jurisdiction based on personal service only,
37 the tribal court was a seriously inconvenient forum for the trial of
38 the action.

39 ~~(7)~~

1 (F) The judgment was rendered under circumstances that raise
 2 substantial doubt about the integrity of the rendering court with
 3 respect to the judgment.

4 ~~(8)~~

5 (G) The specific proceeding in the tribal court leading to the
 6 judgment was not compatible with the requirements of due process
 7 of law.

8 ~~(9)~~

9 (H) The judgment includes recovery for a claim of defamation,
 10 unless the court determines that the defamation law applied by the
 11 tribal court provided at least as much protection for freedom of
 12 speech and the press as provided by both the United States and
 13 California Constitutions.

14 (2) *Notwithstanding an applicable ground for nonrecognition*
 15 *under paragraph (1), the court may nonetheless recognize a tribal*
 16 *court money judgment if the applicant demonstrates good reason*
 17 *to recognize the judgment that outweighs the ground for*
 18 *nonrecognition.*

19 (d) *The superior court may, in its discretion, decline to recognize*
 20 *and enter a tribal court money judgment if the judgment conflicts*
 21 *with another final and conclusive judgment.*

22 ~~(d)~~

23 (e) If objections have been timely filed, the applicant has the
 24 burden of establishing that the tribal court money judgment is
 25 entitled to recognition. If the applicant has met its burden, a party
 26 resisting recognition of the tribal court money judgment has the
 27 burden of establishing that a ground for nonrecognition exists
 28 pursuant to subdivision-~~(b)~~ (b), (c), or-~~(e)~~: (d).

29 ~~SEC. 14.~~

30 SEC. 15. Section 1741 of the Code of Civil Procedure is
 31 amended to read:

32 1741. (a) The Uniform Foreign-Country Money Judgments
 33 Recognition Act (Chapter 2 (commencing with Section 1713))
 34 applies to all actions commenced in superior court before January
 35 1, 2015, in which the issue of recognition of a tribal court money
 36 judgment is raised.

37 (b) This chapter applies to all actions to enforce tribal court
 38 money judgments as defined herein commenced in superior court
 39 on or after January 1, 2015. A judgment entered under this chapter
 40 shall not limit the right of a party to seek enforcement of any part

1 of a judgment, order, or decree entered by a tribal court that is not
2 encompassed by the judgment entered under this chapter.

3 ~~SEC. 15.~~

4 *SEC. 16.* Section 1742 of the Code of Civil Procedure is
5 repealed.

6 ~~SEC. 16.~~

7 *SEC. 17.* No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

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