



SENATE BILL 596: Protection Against Unconst. Foreign Judgmnts

2015-2016 General Assembly

Committee:	Senate Judiciary I	Date:	April 21, 2015
Introduced by:	Sens. Krawiec, Newton, Wade	Prepared by:	Brad Krehely
Analysis of:	PCS to First Edition S596-CSRN-12		Committee Counsel

SUMMARY: *Senate Bill 596 clarifies the existing law regarding the enforcement of foreign-country judgments. The Proposed Committee Substitute (PCS) (1) deletes former Section 1 of the bill, (2) clarifies that foreign-country judgments obtained by foreign governments to compensate for the expenditure of public funds for government programs shall not be recognized in North Carolina, and (3) clarifies that the situation described on page 2, lines 32-37, is "fundamentally unfair" and "repugnant to the public policy of the State", but that it is not the only situation that can be fundamentally unfair or repugnant to the public policy of the State.*

BILL ANALYSIS:

Section 1 provides that a North Carolina court must not recognize a foreign-country judgment if the judgment was obtained by a foreign government entity to compensate for the expenditure of public funds for government programs.

It also provides that the recognition of judgment that is based on a foreign statute or rule of law which, as applied by the foreign court, would have been contrary to either the United States Constitution or the North Carolina Constitution must be denied unless the recognition is reasonable under the circumstances.

Section 1 also provides that if a proceeding in a foreign court is brought by a foreign government entity based upon rules of law adopted for the benefit of the foreign government entity that are applied ex post facto to conduct of the defendant or if the action imposes liability for harms to individuals without requiring proof of each element of the claim, the court must find that the action is fundamentally unfair and its judgment is repugnant to the public policy of this State.

Section 2 is a severability clause providing that if any part of the Article is invalid, then other parts or applications remain valid.

EFFECTIVE DATE: The act is effective when it becomes law and applies to recognition of foreign-country judgments on or after that date regardless of when the judgment was entered.

BACKGROUND: Article 20 of Chapter 1C of the General Statutes is the North Carolina Uniform Foreign-Country Money Judgments Recognition Act. It was adopted in 2009 and was based on the Uniform Foreign-Country Money Judgments Recognition Act as approved by the National Conference of Commissioners on Uniform State Law (S.L. 2009-325).

Bly Hall, Staff Attorney with the Bill Drafting Division, contributed to this summary.

O. Walker Reagan
Director



Research Division
(919) 733-2578

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