



SENATE BILL 596: Protection Against Unconstitutional Foreign Judgments

2015-2016 General Assembly

Committee:

Introduced by:

Analysis of: S.L. 2015-107

Date:

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SUMMARY: *S.L. 2015-107, as amended by Section 32 of S.L. 2015-264, clarifies the existing law regarding the enforcement of foreign-country judgments by stating that foreign-country judgments obtained by foreign governments to compensate for the expenditure of public funds for government programs must not be recognized in North Carolina. It also provides that the recognition of a 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.*

The act became effective June 24, 2015, and applies to recognition of foreign-country judgments on or after that date regardless of when the judgment was entered.

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 a 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 North Carolina court must find that the action is fundamentally unfair and its judgment is repugnant to the public policy of this State.

Section 2 adds a severability clause to Article 20 of Chapter 1C, North Carolina Uniform Foreign County Money Judgments Recognition Act, providing that if any part of that Article is invalid, then other parts or applications remain valid.

EFFECTIVE DATE: The act became effective June 24, 2015, and applies to recognition of foreign-country judgments on or after that date regardless of when the judgment was entered.

O. Walker Reagan
Director



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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).