



## 2011 ASSEMBLY BILL 391

November 23, 2011 - Introduced by Representative D. CULLEN, cosponsored by Senator RISSER. Referred to Committee on Judiciary and Ethics.

1     **AN ACT** *to create* subchapter I (title) of chapter 806 [precedes 806.01],  
2             subchapter II (title) of chapter 806 [precedes 806.30], subchapter III (title) of  
3             chapter 806 [precedes 806.50], 806.50, 806.51, 806.52, 806.53, 806.54, 806.55,  
4             806.56, 806.57 and 806.58 of the statutes; **relating to:** creating the Uniform  
5             Foreign Country Money Judgments Recognition Act.

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### *Analysis by the Legislative Reference Bureau*

This bill adopts the 2005 Uniform Foreign-Country Money Judgments Recognition Act adopted by the National Conference of Commissioners on Uniform State Laws. The bill requires the courts of this state to recognize a judgment of a court outside of the United States that grants or denies the recovery of a sum of money. Under the bill, to receive recognition by this state's courts, the foreign country's judgment must be final, conclusive, and enforceable. The bill excludes foreign country money judgments that are for taxes, for forfeitures or fines, or for support, maintenance, or a property division in connection with a domestic relations case.

Under the bill, this state's circuit courts are prohibited from recognizing a foreign country money judgment that was rendered by a judicial system that does not provide procedures compatible with the due process of law or that did not have jurisdiction over the defendant or the subject matter. The bill prohibits a circuit court from refusing to recognize the judgment for lack of personal jurisdiction for a number of reasons, including if the defendant was personally served with process in the



**ASSEMBLY BILL 391****CHAPTER 806****SUBCHAPTER III****JUDGMENT; UNIFORM FOREIGN COUNTRY****MONEY JUDGMENTS RECOGNITION**

**SECTION 4.** 806.50 of the statutes is created to read:

**806.50 Definitions. (1)** In this subchapter:

(a) "Foreign country" means a government other than one of the following:

1. The U.S. government.

2. The government of a state, district, commonwealth, territory, or insular possession of the United States.

3. Any other government with regard to which the decision in this state as to whether to recognize the judgment of that government's courts is initially subject to a determination under article IV, section 1, of the U.S. Constitution.

(b) "Foreign country judgment" means a judgment of a court of a foreign country.

**SECTION 5.** 806.51 of the statutes is created to read:

**806.51 Application. (1)** Except as provided in sub. (2), this subchapter applies to a foreign country judgment to the extent that the foreign country judgment meets all of the following criteria:

(a) Grants or denies recovery of a sum of money.

(b) Under the law of the foreign country where the foreign country judgment is rendered, is final, conclusive, and enforceable.

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

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1 (a) A judgment for taxes.

2 (b) A judgment of a forfeiture, fine, or other penalty.

3 (c) A judgment for support, maintenance, property division, or other judgment  
4 rendered in connection with domestic relations.

5 **SECTION 6.** 806.52 of the statutes is created to read:

6 **806.52 Standards for recognition of a foreign country judgment. (1)**

7 Except as provided in subs. (2) and (3), a circuit court shall recognize a foreign  
8 country judgment.

9 (2) A circuit court may not recognize a foreign country judgment if any of the  
10 following applies:

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

14 (b) The foreign court that rendered the foreign country judgment did not have  
15 personal jurisdiction over the defendant in the proceeding.

16 (c) The foreign court that rendered the foreign country judgment did not have  
17 jurisdiction over the subject matter.

18 (3) A circuit court need not recognize a foreign country judgment if any of the  
19 following applies:

20 (a) The defendant in the proceeding in the foreign court that rendered the  
21 foreign country judgment did not receive notice of the proceeding in sufficient time  
22 to enable the defendant to defend.

23 (b) The foreign country judgment was obtained by fraud that deprived the  
24 losing party of an adequate opportunity to present its case.

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1 (c) The foreign country judgment or the claim for relief on which the foreign  
2 country judgment is based is repugnant to the public policy of this state or of the  
3 United States.

4 (d) The foreign country judgment conflicts with another final and conclusive  
5 judgment.

6 (e) The proceeding in the foreign court that rendered the foreign country  
7 judgment was contrary to an agreement between the parties under which the dispute  
8 in question was to be determined otherwise than by proceedings in that foreign court.

9 (f) In the case of jurisdiction based only on personal service, the foreign court  
10 that rendered the foreign country judgment was a seriously inconvenient forum for  
11 the trial of the action.

12 (g) The foreign country judgment was rendered in circumstances that raise  
13 substantial doubt about the integrity of the foreign court that rendered the foreign  
14 country judgment with respect to the foreign country judgment.

15 (h) The specific proceeding in the foreign court leading to the foreign country  
16 judgment was not compatible with the requirements of due process of law.

17 (4) The party resisting recognition of the foreign country judgment has the  
18 burden of establishing that one of the grounds for nonrecognition of that foreign  
19 country judgment under sub. (2) or (3) exist.

20 **SECTION 7.** 806.53 of the statutes is created to read:

21 **806.53 Personal jurisdiction.** (1) A circuit court may not refuse to recognize  
22 a foreign country judgment for lack of personal jurisdiction if the defendant meets  
23 any of the following conditions:

24 (a) The defendant was served with process personally in the foreign country in  
25 the proceeding that resulted in the foreign country judgment.

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1 (b) The defendant voluntarily appeared in the proceeding that resulted in the  
2 foreign country judgment, other than for the purpose of protecting property seized  
3 or threatened with seizure in the proceeding or of contesting the jurisdiction of the  
4 court over the defendant.

5 (c) Before the commencement of the proceeding that resulted in the foreign  
6 country judgment, the defendant had agreed to submit to the jurisdiction of the  
7 foreign court with respect to the subject matter involved in that proceeding.

8 (d) The defendant was domiciled in the foreign country when the proceeding  
9 that resulted in the foreign country judgment was instituted.

10 (e) The defendant was a corporation or other form of business organization that  
11 had its principal place of business in, or was organized under the laws of, the foreign  
12 country.

13 (f) The defendant had a business office in the foreign country and the  
14 proceeding in the court in that foreign country involved a claim for relief arising out  
15 of business done by the defendant through that office in the foreign country.

16 (g) The defendant operated a motor vehicle, as defined in s. 192.327 (1) (b), or  
17 an airplane in the foreign country and the proceeding that resulted in the foreign  
18 country judgment involved a claim for relief arising out of that operation.

19 (2) In addition to the list under sub. (1), a circuit court may recognize other  
20 bases for personal jurisdiction as sufficient to support the recognition of a foreign  
21 country judgment.

22 **SECTION 8.** 806.54 of the statutes is created to read:

23 **806.54 Procedure for recognition of a foreign country judgment. (1)**

24 If recognition of a foreign country judgment is sought as an original matter, the issue

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1 of recognition shall be raised by filing an action in circuit court seeking recognition  
2 of the foreign country judgment.

3 (2) If recognition of a foreign country judgment is sought in a pending action,  
4 the issue of recognition may be raised by counterclaim, cross-claim, or as an  
5 affirmative defense.

6 (3) The party seeking recognition of a foreign country judgment has the burden  
7 of proving that this subsection applies to the foreign country judgement.

8 **SECTION 9.** 806.55 of the statutes is created to read:

9 **806.55 Effect of recognition of a foreign country judgment.** If a circuit  
10 court in a proceeding under s. 806.54 finds that the foreign country judgment is  
11 entitled to recognition, then, to the extent that the foreign country judgment grants  
12 or denies recovery of a sum of money, all of the following apply:

13 (1) The foreign country judgment is conclusive between the parties to the same  
14 extent as the judgment of another state entitled to full faith and credit in this state  
15 would be conclusive.

16 (2) The foreign country judgment is enforceable in the same manner and to the  
17 same extent as a judgment rendered in this state.

18 **SECTION 10.** 806.56 of the statutes is created to read:

19 **806.56 Stay of proceedings pending appeal of a foreign country**  
20 **judgment.** If a party establishes that an appeal from a foreign country judgment  
21 is pending or will be taken in that foreign country, the circuit court may stay any  
22 proceedings with regard to the foreign country judgment until the appeal is  
23 concluded, the time for appeal is expired, or the party appealing has had sufficient  
24 time to prosecute the appeal and has failed to do so.

25 **SECTION 11.** 806.57 of the statutes is created to read:

