

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 805
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Short Title: Uniform Foreign Judgments Act.

(Public)

Sponsors:

Referred to:

April 6, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT FOR NORTH CAROLINA THE UNIFORM ENFORCEMENT
3 OF FOREIGN JUDGMENTS ACT.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 1C of the General Statutes is amended by adding a new
6 Article to read:

7 **“ARTICLE 17.**
8 **“UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT.**

9 **“§ 1C-1701. Short title.**

10 This act shall be known and may be cited as the Uniform Enforcement of Foreign
11 Judgments Act.

12 **“§ 1C-1702. Definitions.**

13 As used in this Article, unless the context requires otherwise:

14 (1) ‘Foreign Judgment’ means any judgment, decree, or order of a court of
15 the United States or a court of any other state which is entitled to full
16 faith and credit in this State, except a ‘support order,’ as defined in
17 G.S. 52A-3(14) (The Uniform Reciprocal Enforcement of Support
18 Act) or a ‘custody decree,’ as defined in G.S. 50A-2(4) (the Uniform
19 Child Custody Jurisdiction Act).

20 (2) ‘Judgment Debtor’ means the party against whom a foreign judgment
21 has been rendered.

1 (3) 'Judgment Creditor' means the party in whose favor a foreign
2 judgment has been rendered.

3 **"§ 1C-1703. Filing and status of foreign judgments.**

4 (a) A copy of any foreign judgment authenticated in accordance with an act of
5 Congress or the statutes of this State may be filed in the office of the clerk of superior
6 court of any county of this State in which the judgment debtor resides, or owns real or
7 personal property. Along with the foreign judgment, the judgment creditor or his
8 attorney shall make and file with the clerk an affidavit which states that the foreign
9 judgment is final and that it is unsatisfied in whole or in part, and which sets forth the
10 amount remaining unpaid on the judgment.

11 (b) Upon the filing of the foreign judgment and the affidavit, the foreign
12 judgment shall be docketed and indexed in the same manner as a judgment of this State;
13 however, no execution shall issue upon the foreign judgment nor shall any other
14 proceeding be taken for its enforcement until the expiration of 30 days from the date
15 upon which notice of filing is served in accordance with G.S. 1C-1704.

16 (c) A judgment so filed has the same effect and is subject to the same defenses as
17 a judgment of this State and shall be enforced or satisfied in like manner; provided
18 however, if the judgment debtor files a motion for relief or notice of defense pursuant to
19 G.S. 1C-1705, enforcement of the foreign judgment is automatically stayed, without
20 security, until the court finally disposes of the matter.

21 **"§ 1C-1704. Notice of filing; service.**

22 (a) Promptly upon the filing of a foreign judgment and affidavit, the judgment
23 creditor shall serve the notice of filing provided for in subsection (b) on the judgment
24 debtor and shall attach thereto a filed-stamped copy of the foreign judgment and
25 affidavit. Service and proof of service of the notice may be made in any manner
26 provided for in Rule 4(j) of the Rules of Civil Procedure.

27 (b) The notice shall set forth the name and address of the judgment creditor, of
28 his attorney if any, and of the clerk's office in which the foreign judgment is filed in this
29 State, and shall state that the judgment attached thereto has been filed in that office, that
30 the judgment debtor has 30 days from the date of receipt of the notice to seek relief
31 from the enforcement of the judgment, and that if the judgment is not satisfied and no
32 such relief is sought within that 30 days, the judgment will be enforced in this State in
33 the same manner as any judgment of this State.

34 **"§ 1C-1705. Defenses; procedure.**

35 (a) The judgment debtor may file a motion for relief from, or notice of defense
36 to, the foreign judgment on the grounds that the foreign judgment has been appealed
37 from, or enforcement has been stayed by, the court which rendered it, or on any other
38 ground for which relief from a judgment of this State would be allowed.

39 (b) If the judgment debtor has filed a motion for relief or notice of defenses then
40 the judgment creditor may move for enforcement of the foreign judgment as a judgment
41 of this State. The judgment creditor's motion shall be heard before a judge of the trial
42 division which would be the proper division for the trial of an action in which the
43 amount in controversy is the same as the amount remaining unpaid on the foreign
44 judgment. The Rules of Civil Procedure (G.S. 1A-1) shall apply. The judgment

1 creditor shall have the burden of proving that the foreign judgment is entitled to full
2 faith and credit.

3 **"§ 1C-1706. Fees.**

4 The enforcement of a foreign judgment under this Article shall be subject to the
5 costs and fees set forth in Article 28 of Chapter 7A of the General Statutes. The amount
6 remaining unpaid on the foreign judgment as set forth in the affidavit filed under G.S.
7 1C-1703(b) shall determine the amount of the costs to be collected at the time of the
8 filing of the foreign judgment and assessed pursuant to G.S. 7A-305.

9 **"§ 1C-1707. Optional procedure.**

10 This Article may not be construed to impair a judgment creditor's right to bring a
11 civil action in this State to enforce such creditor's judgment.

12 **"§ 1C-1708. Judgments against public policy.**

13 The provisions of this act shall not apply to foreign judgments based on claims
14 which are contrary to the public policies of North Carolina."

15 Sec. 2. This act shall become effective October 1, 1989 and shall apply only
16 to those foreign judgments rendered on or after that date.