

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SAC
ROS¹
2

Date: 4-6-22

L.D. 903

(Filing No. H-948)

MAJORITY
JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 659, L.D. 903, "An Act To Enact the Uniform Foreign-country Money Judgments Recognition Act"

Amend the bill by striking out the title and substituting the following:

'An Act To Enact the Uniform Foreign-country Money Judgments Recognition Act and the Uniform Registration of Canadian Money Judgments Act'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 14 MRSA c. 753, as amended, is repealed.

Sec. 2. 14 MRSA c. 759 is enacted to read:

CHAPTER 759

UNIFORM FOREIGN-COUNTRY MONEY JUDGMENTS RECOGNITION ACT

§8801. Short title

This chapter may be known and cited as "the Uniform Foreign-country Money Judgments Recognition Act."

§8802. Definitions

As used in this Act, unless the context otherwise indicates, the following terms have the following meanings.

1. Foreign country. "Foreign country" means a governmental unit other than:

A. The United States;

B. A state, district, commonwealth, territory or insular possession of the United States;
or

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

C. Any other government with regard to which the decision in this State as to whether to recognize a judgment of that government's courts is initially subject to determination under the full faith and credit clause of the United States Constitution, Article IV, Section 1.

2. Foreign-country judgment. "Foreign-country judgment" means any judgment of a court of a foreign country.

§8803. Applicability

1. Sum of money; enforceable. Except as otherwise provided in subsection 2, this Act applies to a foreign-country judgment to the extent that the judgment:

- A. Grants or denies recovery of a sum of money; and
- B. Is final, conclusive and enforceable under the law of the foreign country where it was rendered.

2. Exclusions. This Act does not apply to a foreign-country judgment, even if the judgment grants or denies recovery of a sum of money, to the extent that the judgment is:

- A. A judgment for taxes;
- B. A fine or other penalty; or
- C. A judgment for divorce, support or maintenance or other judgment rendered in connection with domestic relations.

3. Establish applicability. A party seeking recognition of a foreign-country judgment has the burden of establishing that this Act applies to the foreign-country judgment.

§8804. Standards for recognition of foreign-country judgment

1. Recognition if applicable. Except as otherwise provided in subsections 2 and 3, a court of this State shall recognize a foreign-country judgment to which this Act applies.

2. Not recognized. A court of this State may not recognize a foreign-country judgment if:

- A. The judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law;
- B. The foreign court did not have personal jurisdiction over the defendant; or
- C. The foreign court did not have jurisdiction over the subject matter.

3. Discretion to not recognize. A court of this State need not recognize a foreign-country judgment if:

- A. The defendant in the proceeding in the foreign court did not receive notice of the proceeding in sufficient time to enable the defendant to defend;
- B. The judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present its case;
- C. The judgment or the cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this State or the United States;
- D. The judgment conflicts with another final and conclusive judgment;

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

E. The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that foreign court;

F. In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action;

G. The judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment; or

H. The specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law.

4. Establish nonrecognition grounds. A party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for nonrecognition stated in subsection 2 or 3 exists.

§8805. Personal jurisdiction

1. Lack of personal jurisdiction. A foreign-country judgment may not be refused recognition for lack of personal jurisdiction if:

A. The defendant was served personally in the foreign country;

B. The defendant voluntarily appeared in the proceeding, other than for the purpose of protecting property seized or threatened with seizure in the proceeding or of contesting the jurisdiction of the court over the defendant;

C. The defendant, before the commencement of the proceeding, had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

D. The defendant was domiciled in the foreign country when the proceeding was instituted or was a corporation or other form of business organization that had its principal place of business in, or was organized under the laws of, the foreign country;

E. The defendant had a business office in the foreign country and the proceeding in the foreign court involved a cause of action or claim for relief arising out of business done by the defendant through that office in the foreign country; or

F. The defendant operated a motor vehicle or airplane in the foreign country and the proceeding involved a cause of action or claim for relief arising out of that operation.

2. Other bases of personal jurisdiction. The list of bases for personal jurisdiction in subsection 1 is not exclusive. The courts of this State may recognize bases of jurisdiction other than those in subsection 1 as sufficient to support a foreign-country judgment.

§8806. Procedure for recognition of foreign-country judgment

1. Original matter. If recognition of a foreign-country judgment is sought as an original matter, the issue of recognition must be raised by commencing an action in compliance with the Maine Rules of Civil Procedure seeking recognition of the foreign-country judgment.

2. In pending action. If recognition of a foreign-country judgment is sought in a pending action, the issue of recognition may be raised by counterclaim, cross-claim or affirmative defense, filed and served in compliance with the Maine Rules of Civil Procedure.

ROS

§8807. Effect of recognition of foreign-country judgment

If the court in a proceeding under section 8806 finds that the foreign-country judgment is entitled to recognition under this Act, then, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, the foreign-country judgment is:

1. Conclusive. Conclusive between the parties to the same extent as the judgment of another state entitled to full faith and credit in this State would be conclusive; and

2. Enforceable. Enforceable in the same manner and to the same extent as a judgment rendered in this State.

§8808. Stay of proceeding pending appeal of foreign-country judgment

If a party establishes that an appeal from a foreign-country judgment is pending or will be taken, the court may stay any proceeding with regard to the foreign-country judgment until the appeal is concluded, the time for appeal expires or the appellant has had sufficient time to prosecute the appeal and has failed to do so.

§8809. Statute of limitations

An action to recognize a foreign-country judgment must be commenced within the earlier of the time during which the foreign-country judgment is effective in the foreign country and 15 years from the date that the foreign-country judgment became effective in the foreign country.

§8810. Uniformity of application and interpretation

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§8811. Saving clause

This Act does not prevent the recognition under principles of comity or otherwise of a foreign-country judgment not within the scope of this Act.

§8812. Effective date

This Act takes effect January 1, 2023.

Sec. 3. 14 MRSA c. 761 is enacted to read:

CHAPTER 761

UNIFORM REGISTRATION OF CANADIAN MONEY JUDGMENTS ACT

§8901. Short title

This chapter may be known and cited as "the Uniform Registration of Canadian Money Judgments Act."

§8902. Definitions

As used in this Act, unless the context otherwise indicates, the following terms have the following meanings.

1. Canada. "Canada" means the sovereign nation of Canada and its provinces and territories. "Canadian" has a corresponding meaning.

ROS
2

2. Canadian judgment. "Canadian judgment" means a judgment of a court of Canada, other than a judgment that recognizes the judgment of another foreign country.

§8903. Applicability

1. Enforcement of judgment. This Act applies to a Canadian judgment to the extent the judgment is within the scope of section 8803, if recognition of the judgment is sought to enforce the judgment.

2. Judgment for recovery of sum and other relief. A Canadian judgment that grants both recovery of a sum of money and other relief may be registered under this Act, but only to the extent of the grant of recovery of a sum of money.

3. Subject matter of judgment. A Canadian judgment regarding subject matter both within and not within the scope of this Act may be registered under this Act, but only to the extent the judgment is with regard to subject matter within the scope of this Act.

§8904. Registration of Canadian judgment

1. Registration in office of the court clerk. A person seeking recognition of a Canadian judgment described in section 8903 to enforce the judgment may register the judgment in the office of the clerk of a court in which an action for recognition of the judgment could be filed under section 8806.

2. Execution and contents of registration. A registration under subsection 1 must be executed by the person registering the judgment or the person's attorney and include:

A. A copy of the Canadian judgment authenticated as an accurate copy by the court that entered the judgment;

B. The name and address of the person registering the judgment;

C. If the person registering the judgment is not the person in whose favor the judgment was rendered, a statement describing the interest the person registering the judgment has in the judgment that entitles the person to seek its recognition and enforcement;

D. The name and last-known address of the person against whom the judgment is being registered;

E. If the judgment is of the type described in section 8903, subsection 2 or 3, a description of the part of the judgment being registered;

F. The amount of the judgment or part of the judgment being registered, identifying:

(1) The amount of interest accrued as of the date of registration on the judgment or part of the judgment being registered, the rate of interest, the part of the judgment to which interest applies and the date when interest began to accrue;

(2) Costs and expenses included in the judgment or part of the judgment being registered, other than an amount awarded for attorney's fees; and

(3) The amount of an award of attorney's fees included in the judgment or part of the judgment being registered;

G. The amount, as of the date of registration, of post-judgment costs, expenses and attorney's fees claimed by the person registering the judgment or part of the judgment;

ROS

1 H. The amount of the judgment or part of the judgment being registered that has been
2 satisfied as of the date of registration;

3 I. A statement that:

4 (1) The judgment is final, conclusive and enforceable under the law of the
5 Canadian jurisdiction in which it was rendered;

6 (2) The judgment or part of the judgment being registered is within the scope of
7 this Act; and

8 (3) If a part of the judgment is being registered, the amounts stated in the
9 registration under paragraphs F, G and H relate to the part;

10 J. If the judgment is not in English, a court-prepared copy of the judgment in the
11 appropriate language or, if such a copy is not available, a certified translation of the
12 judgment into English; and

13 K. The fee to register a judgment under this Act as set by court rule or order.

14 **3. Registration on docket.** On receipt of a registration that includes the documents,
15 information and registration fee required by subsection 2, the clerk shall accept the
16 registration for filing, assign a docket number and enter the Canadian judgment in the court
17 file.

18 **§8905. Effect of registration**

19 **1. Effect.** Subject to subsection 2, a Canadian judgment registered under section 8904
20 has the same effect as provided in chapter 759 for a judgment a court determines to be
21 entitled to recognition.

22 **2. Enforcement limitations.** A Canadian judgment registered under section 8904
23 may not be enforced by sale or other disposition of property, or by seizure of property or
24 trustee process, until 31 days after notice of registration is served under section 8906. The
25 court for cause may provide for a shorter or longer time. This subsection does not preclude
26 use of relief available under the law of this State other than this Act to prevent dissipation,
27 disposition or removal of property.

28 **§8906. Notice of registration**

29 **1. Notice served on person against whom judgment registered.** A person that
30 registers a Canadian judgment under section 8904 shall cause notice of registration to be
31 served, in the same manner that a summons and complaint must be served pursuant to the
32 Maine Rules of Civil Procedure, on the person against whom the judgment has been
33 registered.

34 **2. Notice contents.** Notice under this section must include:

35 A. The date of registration and court in which the judgment was registered;

36 B. The docket number assigned to the registration;

37 C. The name and address of:

38 (1) The person registering the judgment; and

39 (2) The person's attorney, if any;

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40

D. A copy of the registration, including the documents required under section 8904, subsection 2; and

E. A statement that:

(1) The person against whom the judgment has been registered may, not later than 30 days after the date of service of notice, file a motion with the court to vacate the registration; and

(2) The court for cause may provide for a shorter or longer time.

3. Proof of service. Proof of service of notice under this section must be filed with the clerk of the court.

§8907. Motion to vacate registration

1. Thirty days to vacate after notice. Not later than 30 days after notice of registration is served under section 8906, the person against whom the judgment was registered may file a motion to vacate the registration. The court for cause may provide for a shorter or longer time for filing the motion.

2. Contents of motion. A motion under this section may assert only:

A. A ground that could be asserted to deny recognition of the judgment under chapter 759; or

B. A failure to comply with a requirement of this Act for registration of the judgment.

3. Enforcement not stayed. A motion filed under this section does not itself stay enforcement of the registered judgment.

4. Registration vacated; enforcement act void. If the court grants a motion under this section, the registration is vacated, and any act under the registration to enforce the registered judgment is void.

5. Denial of recognition of judgment. If the court grants a motion under this section on a ground under subsection 2, paragraph A, the court also shall render a judgment denying recognition of the Canadian judgment. A judgment rendered under this subsection has the same effect as a judgment denying recognition to a judgment on the same ground under chapter 759.

§8908. Stay of enforcement of judgment pending determination of motion to vacate registration

A person that files a motion under section 8907 to vacate registration of a Canadian judgment may request the court to stay enforcement of the judgment pending determination of the motion. The court shall grant the stay if the person establishes a likelihood of success on the merits with regard to a ground listed in section 8907, subsection 2 for vacating a registration. The court may require the person to provide security in an amount determined by the court as a condition of granting the stay.

§8909. Relationship to Uniform Foreign-country Money Judgments Recognition Act

1. Application of chapter 759 to this Act. This Act supplements the Uniform Foreign-country Money Judgments Recognition Act and that Act, other than section 8806, applies to a registration under this Act.

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41

2. Options for recognition of Canadian judgment. A person may seek recognition of a Canadian judgment described in section 8903 either:

- A. By registration under this Act; or
- B. Under section 8806.

3. Recognition under both Acts prohibited. Subject to subsection 4, a person may not seek recognition in this State of the same judgment or part of a judgment described in section 8903, subsection 2 or 3 with regard to the same person under both this Act and the Uniform Foreign-country Money Judgments Recognition Act.

4. Vacated registration. If the court grants a motion to vacate a registration solely on a ground under section 8907, subsection 2, paragraph B, the person seeking registration may:

- A. If the defect in the registration can be cured, file a new registration under this Act; or
- B. Seek recognition of the judgment under the Uniform Foreign-country Money Judgments Recognition Act.

§8910. Uniformity of application and interpretation

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§8911. Transitional provision

This Act applies to the registration of a Canadian judgment entered in a proceeding that is commenced in Canada on, before or after January 1, 2023.

§8912. Effective date

This Act takes effect January 1, 2023.

Sec. 4. 17 MRSA §1836, sub-§2, as amended by PL 2017, c. 284, Pt. KKKKK, §20, is further amended to read:

2. License application. An organization shall submit a license application to the Gambling Control Unit on a form provided by the Gambling Control Unit. The license application must specify one or more charitable organizations that the proceeds of the tournament game are intended to benefit. For the purposes of this section, "charitable organization" means a person or entity, including a person or entity in a foreign state as defined in Title 14, ~~section 8502~~, that is or purports to be organized or operated for any charitable purpose or that solicits, accepts or obtains contributions from the public for any charitable, educational, humane or patriotic purpose. For purposes of this subsection, "foreign state" means a governmental unit other than the United States; any state, district, commonwealth, territory or insular possession of the United States; the Panama Canal Zone; the Trust Territory of the Pacific Islands; or the Ryukyu Islands.

Sec. 5. Prefatory notes and comments of uniform laws. The prefatory notes and comments approved by the National Conference of Commissioners on Uniform State Laws as part of the Uniform Foreign-country Money Judgments Recognition Act and the Uniform Registration of Canadian Money Judgments Act are applicable to the enactments of this Act.

ROS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior and District 0063

Initiative: Provides one-time funding for programming changes to 2 existing case management systems.

GENERAL FUND	2021-22	2022-23
All Other	\$0	\$9,300
GENERAL FUND TOTAL	\$0	\$9,300

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill, which is a concept draft.

This amendment enacts the Uniform Foreign-country Money Judgments Recognition Act and the Uniform Registration of Canadian Money Judgments Act. Both Acts take effect January 1, 2023. The key difference between the 2 laws is that the Uniform Registration of Canadian Money Judgments Act allows registration in the Maine courts of a Canadian money judgment, without the registered judgment being related to an action already pending or being filed in the Maine courts.

The Uniform Foreign-country Money Judgments Recognition Act provides rules for recognition and enforcement of money judgments from any foreign country. Maine's existing law on this subject, the Maine Revised Statutes, Title 14, sections 8501 to 8509, is the previous version of this uniform act, which was promulgated by the Uniform Law Commission in 1962 and enacted in Maine in 1999.

Under the amendment, if a person wishes to enforce in Maine a money judgment from a foreign country, the first step is recognition of the foreign-country judgment. A creditor may seek recognition by filing an action in state court or by filing a counterclaim, cross-claim or affirmative defense in a pending action. If the judgment meets the statutory standards, the court must recognize it and then the judgment may be enforced as if it is a judgment of another state of the United States.

To be recognized, a foreign-country money judgment must meet several standards. First, it must be shown that the judgment is conclusive, final and enforceable in the country of origin. Second, the judgment must come from a court system that is impartial and that honors due process. Third, the foreign court must have had personal and subject matter jurisdiction. Recognition of the judgment may be denied for a number of reasons, including if the defendant did not receive notice of the proceeding or the claim is repugnant to American or Maine public policy.

The amendment also includes the Uniform Registration of Canadian Money Judgments Act, originally proposed in L.D. 902. The Uniform Registration of Canadian Money Judgments Act was finalized by the Uniform Law Commission in 2019 to create a

ROS

1 streamlined process for recognizing and enforcing money judgments from Canada. Under
2 this new registration act, Canadian judgments may be recognized by registering the
3 judgment with the clerk of the court with notice to the person against whom the judgment
4 has been registered. Unless the person objects, the judgment may be enforced 31 days
5 following the notice. The person may object on the grounds available under the Uniform
6 Foreign-country Money Judgments Recognition Act or because of a failure to comply with
7 the registration requirements. If the person objects, the process reverts to the process for
8 recognition of judgments from other countries.

9 This expedited process eliminates the need to file a lawsuit, helping reduce legal costs
10 and judicial workload. Under the registration process, the court need not hold a full judicial
11 proceeding to recognize and enforce a Canadian money judgment that meets the
12 requirements of the Act. The streamlined approach of the Act offers a less expensive
13 method to recognize and enforce money judgments that are a result of commercial activity.

14 This amendment includes the following nonuniform modifications to the Uniform
15 Registration of Canadian Money Judgments Act:

16 1. This amendment does not include a statutory form because the judicial branch will
17 develop a petition form for registering a Canadian money judgment.

18 2. The Act applies to money judgments from a Canadian proceeding commenced
19 before as well as on or after the effective date of the Act, which is January 1, 2023.

20 The prefatory notes and comments approved by the National Conference of
21 Commissioners on Uniform State Laws as part of the Uniform Foreign-country Money
22 Judgments Act and the Uniform Registration of Canadian Money Judgments Act are
23 applicable to the enactments contained in this legislation.

24 The amendment adds an appropriations and allocations section.

25 **FISCAL NOTE REQUIRED**
26 **(See attached)**



130th MAINE LEGISLATURE

LD 903

LR 1343(02)

An Act To Enact the Uniform Foreign-country Money Judgments Recognition Act

Fiscal Note for Bill as Amended by Committee Amendment #A (H 948)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	\$0	\$9,300	\$0	\$0
Appropriations/Allocations				
General Fund	\$0	\$9,300	\$0	\$0

Fiscal Detail and Notes

The bill provides one-time General Fund appropriations of \$9,300 in fiscal year 2022-23 to the Judicial Department for programming changes necessary to implement the provisions of the Uniform Foreign-Country Money Judgments Recognition Act and the Uniform Registration of Canadian Money Judgments Act.