I Mina'Trentai Dos Na Liheslaturan Received

Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
400-32 (COR)	R. J. Respicio	AN ACT TO ADOPT THE UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT ("UEFJA") AND THE UNIFORM FOREIGN MONEY JUDGMENTS RECOGNITION ACT ("UFMJRA").	9/17/14 4:04 p.m.	09/18/14	Committee on the Guam U. S. Military Relocation, Homeland Security, Veteran's Affairs, and Judiciary	10/22/14 2 p.m.	11/25/14 4:45 p.m. 12/12/14 3:48 p.m. Supplemental Report	**Fiscal Note Request 9/23/14**
	DATE PASSED	**TITLE**	**TRANSMITTED**		**DUE DATE**	**DATE SIGNED BY I MAGA'LAHEN GUAHAN**	**PUBLIC LAW NO.**	**NOTES**
	12/17/2014	AN ACT TO ADD NEW CHAPTERS 51 AND 52 TO TITLE 7 OF THE GUAM CODE ANNOTATED, RELATIVE TO ADOPTING THE UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT (UEFJA) AND THE UNIFORM FOREIGN MONEY JUDGMENTS RECOGNITION ACT (UFMJRA).	12/21/14	6:35 p.m.	01/01/15			

FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

December 21, 2014

The Honorable Edward J.B. Calvo
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

Cos 40, Jesse J
12/21/14
6:35 pm

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Bill Nos. 224-32 (COR); 293-32 (COR); 306-32 (COR); 332-32 (LS); 344-32 (COR); 345-32 (COR); 376-32 (COR); 381-32 (COR); 391-32 (LS); 399-32 (COR); 400-32 (COR); 402-32 (COR); 405-32 (COR); 406-32 (COR); 412-32 (COR); 413-32 (LS); 416-32 (COR); 418-32 (COR); 419-32 (COR); 420-32 (COR); 421-32 (COR); 422-32 (COR); 423-32 (COR); 424-32 (LS); 425-32 (LS); 426-32 (COR); 427-32 (COR); 428-32 (COR); 429-32 (COR); 430-32 (COR); and 434-32 (COR), which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on December 17 and 19, 2014.

Sincerely,

TINA ROSE MUÑA BARNES
Legislative Secretary

Enclosure (31)

FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Bill No. 400-32 (COR), "AN ACT TO ADD NEW CHAPTERS 51 AND 52 TO TITLE 7 OF THE GUAM CODE ANNOTATED, RELATIVE TO ADOPTING THE UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT (UEFJA) AND THE UNIFORM FOREIGN MONEY JUDGMENTS RECOGNITION ACT (UFMJRA),"** was on the 17th day of December, 2014, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 21 day of Dec, 2014, at 6:35 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date:_____

Public Law No._____

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 400-32 (COR)

Introduced by: R. J. Respicio
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
Dennis G. Rodriguez, Jr.
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* NEW CHAPTERS 51 AND 52 TO TITLE 7 OF THE GUAM CODE ANNOTATED, RELATIVE TO ADOPTING THE UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT (UEFJA) AND THE UNIFORM FOREIGN MONEY JUDGMENTS RECOGNITION ACT (UFMJRA).

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that to enforce a sister-state judgment in Guam, the judgment creditor must bring an action on the judgment; when a Guam judgment is obtained, the execution may issue. This manner of enforcing judgments of sister states requires all the normal trappings of an original action. The judgment creditor must file a complaint. There must be personal or quasi in rem jurisdiction. The creditor may obtain a writ of

attachment, if available, to preserve assets until such time as a writ of execution may be issued. A trial (however summary) must be held, at which time the judgment debtor may raise any defenses to the validity of the sister-state judgment. Only after the entry of the Guam judgment may the judgment creditor seek execution on the debtor's assets in Guam.

I Liheslaturan Guåhan finds that the formal, traditional process for enforcing sister-state judgments is time-consuming and inefficient. A simpler and more efficient procedure is offered by the revised Uniform Enforcement of Foreign Judgments Act (UEFJA) of 1964. Under the UEFJA, a sister-state judgment may be filed with the court in the state where enforcement is sought and is then treated as a judgment of that court. It provides a streamlined procedure to domesticate judgments rendered in other states or territories of the United States. It avoids the cost and delay that results from needing to bring a new lawsuit to enforce a sister-state judgment, and it relieves court congestion. It has been adopted by 47 states, the District of Columbia, and the CNMI.

I Liheslaturan Guåhan also finds that the Uniform Foreign Money Judgments Recognition Act (UFMJRA) simplifies international business by recognizing money judgments obtained in other nations. International law provides for recognition by foreign countries of judgments obtained in the adopting state. While all states are required to recognize foreign judgments as a matter of comity under certain circumstances under *Hilton v. Guyot*, 159 U.S. 113 (1895), most states have elected to adopt some version of the UFMJRA to provide uniformity and simplify the procedure. Moreover, because many civil law countries condition recognition of money judgments from foreign courts upon reciprocity, codification of the UFMJRA will make it more likely that judgments rendered in Guam will be recognized in foreign countries.

Therefore, it is the intent of *I Liheslaturan Guåhan* to adopt and enact the

UEFJA and the UFMJRA in Guam.

Section 2. A new Chapter 51 is hereby added to Title 7 of Guam Code Annotated to read:

"CHAPTER 51

THE UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT OF 2014

§51101. Title. This Act *shall* be known as the *"Uniform Enforcement of Foreign Judgments Act (UEFJA) of 2014."*

§51102. Purpose. The purpose of this Act is to provide for a simpler and more efficient procedure to domesticate judgments rendered in other states or territories of the United States that result from needing to bring a new lawsuit to enforce a sister-state judgment.

§51103. Definitions. As used in this Act, unless the context otherwise requires, *foreign judgment* means any judgment, decree, or order of a court of the United States, or of any other court, which is entitled to full faith and credit in Guam.

§51104. Filing and Status of Foreign Judgments. A copy of any foreign judgment authenticated in accordance with an act of Congress or the statutes or court rules of Guam may be filed in the office of the Clerk of the Superior Court of Guam. The Clerk *shall* treat the foreign judgment in the same manner as a judgment of the Superior Court of Guam. A judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of the Superior Court of Guam, and may be enforced or satisfied in like manner.

§51105. Notice of Filing.

(a) At the time of the filing of the foreign judgment, the judgment creditor or the judgment creditor's lawyer *shall* make and file with the Clerk

of Court an affidavit setting forth the name and last known post office address of the judgment debtor and the judgment creditor.

(b) Promptly upon the filing of the foreign judgment and the affidavit, the Clerk *shall* mail a notice of the filing of the foreign judgment to the judgment debtor at the address given, and *shall* make a note of the mailing in the docket. The notice *shall* include the name and post office address of the judgment creditor and the judgment creditor's lawyer, if any, in Guam. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the Clerk. Lack of mailing notice of the filing by the Clerk *shall not* affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

(c) No execution or other process for enforcement of a foreign judgment filed hereunder shall issue until thirty (30) days after the date the judgment is filed.

§51106. Stay.

(a) If the judgment debtor shows the Superior Court in which the judgment is filed that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the Court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state or other jurisdiction in which it was rendered.

(b) If the judgment debtor shows the Superior Court in which the judgment is filed any ground upon which enforcement of a judgment of the Superior Court of Guam would be stayed, the Court *shall* stay enforcement

of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in Guam.

§51107. Fees. Any person filing a foreign judgment *shall* pay to the Clerk of Court a filing fee equal to that established by court rule for the filing of civil actions.

§51108. Optional Procedure. The right of a judgment creditor to bring an action to enforce his judgment instead of proceeding under this Act remains unimpaired.

§51109. Uniformity of Interpretation. This Act *shall* be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states and other jurisdictions which enact it."

Section 3. A new Chapter 52 is hereby *added* to Title 7 of the Guam Code Annotated to read:

"CHAPTER 52

THE UNIFORM FOREIGN MONEY-JUDGMENTS RECOGNITION ACT OF 2014

§52101. Title. This Chapter *shall* be known as the "Uniform Foreign Money-Judgments Recognition Act of 2014."

§52102. Definitions. As used in this Chapter:

(a) *Foreign country* means a government other than:

(1) the United States;

(2) a state, district, commonwealth, territory, or insular possession of the United States; or

(3) 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.

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

§52103. Applicability of Article.

(a) *Except* as otherwise provided in Subsection (b), this Chapter applies to a foreign-country judgment to the extent that the judgment both:

(1) grants or denies recovery of a sum of money; and

(2) under the law of the foreign country where rendered, is final, conclusive, and enforceable.

(b) This Chapter *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:

(1) a judgment for taxes;

(2) a fine or other penalty; or

(3) a judgment for divorce, support, or maintenance, or other judgment rendered in connection with domestic relations.

(c) A party seeking recognition of a foreign-country judgment has the burden of establishing that this Chapter applies to the foreign-country judgment.

§52104. Standards for Recognition of Foreign-Country Judgment.

(a) *Except* as otherwise provided in Subsections (b) and (c), a court of Guam *shall* recognize a foreign-country judgment to which this Chapter applies.

(b) A court of Guam *shall not* recognize a foreign-country judgment if any of the following apply:

(1) 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;

(2) the foreign court did not have personal jurisdiction over the defendant;

(3) the foreign court did not have jurisdiction over the subject matter.

(c) A court of Guam need not recognize a foreign-country judgment if any of the following apply:

(1) 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;

(2) the judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present its case;

(3) the judgment or the cause of action or claim for relief on which the judgment is based is repugnant to the public policy of Guam or of the United States;

(4) the judgment conflicts with another final and conclusive judgment;

(5) 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;

(6) in the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action;

(7) the judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment;

(8) the specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law.

(d) A party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for non-recognition stated in Subsection (b) or (c) exists.

§52105. Personal Jurisdiction.

(a) A foreign-country judgment *shall not* be refused recognition for lack of personal jurisdiction if any of the following apply:

(1) the defendant was served with process personally in the foreign country;

(2) 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;

(3) 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;

(4) 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;

(5) the defendant had a business office in the foreign country and the proceeding in the foreign court involved a cause of action

arising out of business done by the defendant through that office in the foreign country; or

(6) the defendant operated a motor vehicle or airplane in the foreign country and the proceeding involved a cause of action arising out of that operation.

(b) The list of bases for personal jurisdiction in Subsection (a) is not exclusive. The courts of this state may recognize bases of personal jurisdiction other than those listed in Subsection (a) as sufficient to support a foreign-country judgment.

§52106. Procedure for Raising Issue of Recognition of Foreign-Country Money Judgment.

(a) If recognition of a foreign-country judgment is sought as an original matter, the issue of recognition *shall* be raised by filing an action seeking recognition of the foreign-country judgment.

(b) 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.

§52107. Effect of Recognition of Foreign-Country Judgment.

If the court in a proceeding under §52106 finds that the foreign-country judgment is entitled to recognition under this Chapter then, to the extent that the foreign-country judgment grants or denies recovery of a sum of money, the foreign-country judgment is:

(a) conclusive between the parties to the same extent as the judgment of a sister state entitled to full faith and credit in this state would be conclusive; and

(b) enforceable in the same manner and to the same extent as a judgment rendered in Guam.

§52108. Stay of Proceedings 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 proceedings 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.

§52109. 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 or fifteen (15) years from the date that the foreign-country judgment became effective in the foreign country.

§52110. Uniformity of Interpretation.

In applying and construing this Chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the "Uniform Foreign-Country Money Judgments Recognition Act."

§52111. Saving Clause.

The Uniform Foreign-Country Money Judgments Recognition Act does not prevent the recognition under principles of comity or otherwise of a foreign-country judgment not within the scope of that Act."

LEGISLATIVE SESSION

I *MINA'TRENTAI DOS NA LIHESLATURAN*

2014 (SECOND) Regular Session

Voting Sheet

Bill No. 400-32 (COR)

Speaker Antonio R. Unipingco Legislative Session Hall
December 17, 2014

NAME	Yea	Nay	Not Voting/ Abstained	Out During Roll Call	Absent
Senator Thomas "Tom" C. ADA	✓				
Senator V. Anthony "Tony" ADA	✓				
Senator Frank Blas AGUON Jr.	✓				
Vice-Speaker Benjamin J.F. CRUZ	✓				
Senator Christopher M. DUENAS	✓				
Senator Michael LIMTIACO	✓				
Senator Brant McCREADIE	✓				
Senator Thomas "Tommy" MORRISON	✓				
Senator Tina Rose MUÑA BARNES	✓				
Senator Rory J. RESPICIO	✓				
Senator Dennis G. RODRIGUEZ, Jr.	✓				
Senator Michael F. Q.SAN NICOLAS		III ✓			
Speaker Judith T. WON PAT, Ed.D.	✓				
Senator Aline A. YAMASHITA, Ph.D.	✓				
TOTAL	13	1			
	Yea	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

I = Pass