

No. 2030

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



ENROLLED

Com. Sub. for
HOUSE BILL No. 2030

(By ~~Mr.~~ Del. Love + R. Burk)



Passed March 21, 1989

In Effect Ninety Days From Passage

C-641

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE
1989 APR - 4 PM 1:48

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2030

(By DELEGATES LOVE and R. BURK)

[Passed March 21, 1989; in effect ninety days from passage.]

AN ACT to amend chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article fourteen, relating to enacting the uniform enforcement of foreign judgments act; providing definitions; providing for procedures for filing of foreign judgment; providing for notice, execution and stay of proceedings; providing for determination of fees; and allowing alternative action.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article fourteen, to read as follows:

ARTICLE 14. UNIFORM ENFORCEMENT OF FOREIGN JUDGMENTS ACT.

§55-14-1. Definitions.

- 1 In this article "foreign judgment" means any judg-
- 2 ment, decree or order of a court of the United States
- 3 or of any other court which is entitled to full faith and
- 4 credit in this state.

§55-14-2. Filing and status of foreign judgments.

1 A copy of any foreign judgment authenticated in
2 accordance with an act of Congress or the statutes of this
3 state may be filed in the office of the clerk of any circuit
4 court of this state. The clerk shall treat the foreign
5 judgment in the same manner as a judgment of any
6 circuit court of this state. A judgment so filed has the
7 same effect and is subject to the same procedures,
8 defenses and proceedings for reopening, vacating or
9 staying as a judgment of a circuit court of this state and
10 may be enforced or satisfied in like manner.

§55-14-3. Notice of filing.

1 (a) At the time of the filing of the foreign judgment,
2 the judgment creditor or his lawyer shall make and file
3 with the clerk of the circuit court an affidavit setting
4 forth the name and last known post-office address of the
5 judgment debtor and the judgment creditor.

6 (b) Promptly upon the filing of the foreign judgment
7 and the affidavit, the clerk shall mail notice of the filing
8 of the foreign judgment to the judgment debtor at the
9 address given and shall make a note of the mailing in
10 the docket. The notice shall include the name and post-
11 office address of the judgment creditor and the judg-
12 ment creditor's lawyer, if any, in this state. In addition,
13 the judgment creditor may mail a notice of the filing
14 of the judgment to the judgment debtor and may file
15 proof of mailing with the clerk. Lack of mailing notice
16 of filing by the clerk shall not affect the enforcement
17 proceedings if proof of mailing by the judgment creditor
18 has been filed.

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

§55-14-4. Stay.

1 (a) If the judgment debtor shows the circuit court that
2 an appeal from the foreign judgment is pending or will
3 be taken, or that a stay of execution has been granted,
4 the court shall stay enforcement of the foreign judgment
5 until the appeal is concluded, the time for appeal expires

6 or the stay of execution expires or is vacated, upon proof
7 that the judgment debtor has furnished the security for
8 the satisfaction of the judgment required by the state
9 in which it was rendered.

10 (b) If the judgment debtor shows the circuit court any
11 ground upon which enforcement of a judgment of any
12 court of this state would be stayed, the court shall stay
13 enforcement of the foreign judgment for an appropriate
14 period, upon requiring the same security for satisfaction
15 of the judgment which is required in this state.

§55-14-5. Fees.

1 Fees for filing, docketing, transcription or other
2 enforcement proceedings shall be as provided for in
3 section eleven, article one, chapter fifty-nine of this code.

§55-14-6. Optional procedure.

1 The right of a judgment creditor to bring an action
2 to enforce his judgment instead of proceeding under this
3 article remains unimpaired.

§55-14-7. Uniformity of interpretation.

1 This article shall be so interpreted and construed as
2 to effectuate its general purpose to make uniform the
3 law of those states which enact it.

§55-14-8. Short title.

1 This article may be cited as the "Uniform Enforce-
2 ment of Foreign Judgments Act."

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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Frederick L Parker
Chairman Senate Committee

Bernard V Kelly
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Isid C Stubb
Clerk of the Senate

Donald J. Kapp
Clerk of the House of Delegates

Sam S. Tucker
President of the Senate

Bob Walter
Speaker of the House of Delegates

The within *is approved* this the *31st*
day of *March* 1989.

Gaston Caperton
Governor

PRESENTED TO THE

GOVERNOR

Date 3/27

Time 5.07