
A BILL FOR AN ACT

RELATING TO JUDGMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that American journalists
2 and authors have recently been subjected to numerous libel
3 lawsuits intended to stifle their reporting in overseas
4 jurisdictions. These lawsuits are often brought in
5 jurisdictions where the local defamation laws make it virtually
6 impossible, both logistically and substantively, for the authors
7 to defend their work on the merits.

8 The purpose of this Act is to protect journalists and
9 authors by declaring overseas defamation judgments unenforceable
10 in Hawaii unless the foreign defamation law provides, in
11 substance and application, the same free speech protections
12 guaranteed under our own constitution, and by giving the
13 residents and publishers of Hawaii the opportunity to have their
14 day in court here in Hawaii.

15 SECTION 2. Section 658C-5, Hawaii Revised Statutes, is
16 amended to read as follows:

17 " [†] §658C-5 [†] **Grounds for non-recognition.** (a) A
18 foreign judgment shall not be conclusive if:



- 1 (1) The judgment was rendered under a system that does not
2 provide impartial tribunals or procedures compatible
3 with the requirements of due process of law;
- 4 (2) The foreign court did not have personal jurisdiction
5 over the defendant; or
- 6 (3) The foreign court did not have jurisdiction over the
7 subject matter.
- 8 (b) A foreign judgment need not be recognized if:
- 9 (1) The defendant in the proceedings in the foreign court
10 did not receive notice of the proceedings in
11 sufficient time to enable the defendant to defend;
- 12 (2) The judgment was obtained by fraud;
- 13 (3) The cause of action on which the judgment is based is
14 repugnant to the public policy of this State;
- 15 (4) The judgment conflicts with another final and
16 conclusive judgment;
- 17 (5) The proceedings in the foreign court was contrary to
18 an agreement between the parties under which the
19 dispute in question was to be settled otherwise than
20 by proceedings in that court; [ø]



- 1 (6) In the case of jurisdiction based only on personal
2 service, the foreign court was a seriously
3 inconvenient forum for the trial of the action[-]; or
4 (7) The cause of action resulted in a defamation judgment
5 obtained in a jurisdiction outside the United States,
6 unless the court before which the matter is brought
7 sitting in this State first determines that the
8 defamation law applied in the foreign court's
9 adjudication provided at least as much protection for
10 freedom of speech and press in that case as would be
11 provided by both the United States and Hawaii
12 constitutions."

13 SECTION 3. Chapter 658C, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§658C- Foreign defamation judgment. The courts of this
17 State shall have personal jurisdiction over any person who
18 obtains a judgment in a defamation proceeding outside the United
19 States against any person who is a resident of Hawaii or is a
20 person or entity amenable to jurisdiction in Hawaii who has
21 assets in Hawaii or may have to take actions in Hawaii to comply
22 with the judgment, for the purposes of rendering declaratory



1 relief with respect to that person's liability for the judgment,
2 or for the purpose of determining whether the judgment should be
3 deemed non-recognizable pursuant to section 658C-5, or both, to
4 the fullest extent permitted by the Constitution of the United
5 States, provided:

6 (1) The publication at issue was published in Hawaii; and

7 (2) The resident or person amenable to jurisdiction in
8 Hawaii either:

9 (A) Has assets in Hawaii which might be used to
10 satisfy the foreign defamation judgment; or

11 (B) May have to take actions in Hawaii to comply with
12 the foreign defamation judgment.

13 This section shall apply to persons who obtained judgments in
14 defamation proceedings outside the United States prior to or
15 after the effective date of this section, or both."

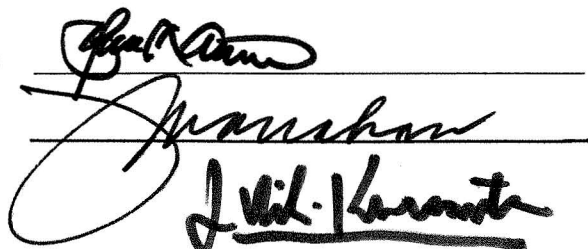
16 SECTION 4. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 5. This Act shall take effect on July 1, 2009.

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INTRODUCED BY:





Report Title:

Defamation Judgments; Foreign Courts; Jurisdiction

Description:

Amends the uniform foreign money-judgments recognition act with regard to defamation judgments acquired in foreign courts. Enforceability depends on the free speech and free press protections afforded by the defamation law applied by the foreign court.

