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# 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 local defamation laws make it virtually  
6 impossible, both logistically and substantively, for the authors  
7 to defend their work on its 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 constitutions, 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. Chapter 658C, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:



1        "§658C- Foreign defamation judgment. The courts of this  
2 State shall have personal jurisdiction over any person who  
3 obtains a foreign judgment for defamation against any person who  
4 is a resident of Hawaii or is a person or entity amenable to  
5 jurisdiction in Hawaii where:

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

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

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

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

14 for the purpose of rendering declaratory relief with respect to  
15 liability for the judgment, or of determining whether the  
16 judgment should be deemed non-recognizable pursuant to section  
17 658C-5, or both.

18       For the purposes of this section, "publish" shall have the  
19 same meaning as defined in section 708-8202(2)."

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



- 1           " ~~[+]~~ §658C-5 ~~[+]~~   **Grounds for non-recognition.**   (a)   A
- 2 foreign judgment shall not be conclusive if:
- 3           (1)   The judgment was rendered under a system that does not
- 4                   provide impartial tribunals or procedures compatible
- 5                   with the requirements of due process of law;
- 6           (2)   The foreign court did not have personal jurisdiction
- 7                   over the defendant; or
- 8           (3)   The foreign court did not have jurisdiction over the
- 9                   subject matter.
- 10          (b)   A foreign judgment need not be recognized if:
- 11          (1)   The defendant in the proceedings in the foreign court
- 12                   did not receive notice of the proceedings in
- 13                   sufficient time to enable the defendant to defend;
- 14          (2)   The judgment was obtained by fraud;
- 15          (3)   The cause of action on which the judgment is based is
- 16                   repugnant to the public policy of this State;
- 17          (4)   The judgment conflicts with another final and
- 18                   conclusive judgment;
- 19          (5)   The proceedings in the foreign court ~~[was]~~ were
- 20                   contrary to an agreement between the parties under
- 21                   which the dispute in question was to be settled
- 22                   otherwise than by proceedings in that court; ~~[or]~~



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           if the court before which the matter is brought in  
7           this state determines that the defamation law applied  
8           in the foreign court's adjudication provided less  
9           protection for freedom of speech and press in that  
10           case as would be provided by both the United States  
11           and Hawaii constitution."

12           SECTION 4. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14           SECTION 5. This Act shall take effect on July 1, 2009, and  
15 shall apply to defamation judgments obtained in a foreign state,  
16 as defined in section 658C-2, Hawaii Revised Statutes, prior to  
17 or after the effective date of this Act, or both.

**Report Title:**

Defamation Judgments; Foreign Courts; Jurisdiction

**Description:**

Amends the Uniform Foreign Money-Judgments Recognition Act. Defamation judgments acquired in foreign courts are unenforceable if the free speech and press protections afforded by the foreign court are less than those under the United States and Hawaii Constitutions. (HB130 HD1)

