

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 747
SENATE BILL 805

AN ACT TO ENACT FOR NORTH CAROLINA THE UNIFORM ENFORCEMENT
OF FOREIGN JUDGMENTS ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 17.

"Uniform Enforcement of Foreign Judgments Act.

"§ 1C-1701. Short title.

This act shall be known and may be cited as the Uniform Enforcement of Foreign Judgments Act.

"§ 1C-1702. Definitions.

As used in this Article, unless the context requires otherwise:

- (1) 'Foreign Judgment' means any judgment, decree, or order of a court of the United States or a court of any other state which is entitled to full faith and credit in this State, except a 'support order,' as defined in G.S. 52A-3(14) (The Uniform Reciprocal Enforcement of Support Act) or a 'custody decree,' as defined in G.S. 50A-2(4) (the Uniform Child Custody Jurisdiction Act).
- (2) 'Judgment Debtor' means the party against whom a foreign judgment has been rendered.
- (3) 'Judgment Creditor' means the party in whose favor a foreign judgment has been rendered.

"§ 1C-1703. Filing and status of foreign judgments.

(a) A copy of any foreign judgment authenticated in accordance with an act of Congress or the statutes of this State may be filed in the office of the clerk of superior court of any county of this State in which the judgment debtor resides, or owns real or personal property. Along with the foreign judgment, the judgment creditor or his attorney shall make and file with the clerk an affidavit which states that the foreign judgment is final and that it is unsatisfied in whole or in part, and which sets forth the amount remaining unpaid on the judgment.

(b) Upon the filing of the foreign judgment and the affidavit, the foreign judgment shall be docketed and indexed in the same manner as a judgment of this State; however, no execution shall issue upon the foreign judgment nor shall any other proceeding be taken for its enforcement until the expiration of 30 days from the date upon which notice of filing is served in accordance with G.S. 1C-1704.

(c) A judgment so filed has the same effect and is subject to the same defenses as a judgment of this State and shall be enforced or satisfied in like manner; provided however, if the judgment debtor files a motion for relief or notice of defense pursuant to G.S. 1C-1705, enforcement of the foreign judgment is automatically stayed, without security, until the court finally disposes of the matter.

"§ 1C-1704. Notice of filing; service.

(a) Promptly upon the filing of a foreign judgment and affidavit, the judgment creditor shall serve the notice of filing provided for in subsection (b) on the judgment debtor and shall attach thereto a filed-stamped copy of the foreign judgment and affidavit. Service and proof of service of the notice may be made in any manner provided for in Rule 4(j) of the Rules of Civil Procedure.

(b) The notice shall set forth the name and address of the judgment creditor, of his attorney if any, and of the clerk's office in which the foreign judgment is filed in this State, and shall state that the judgment attached thereto has been filed in that office, that the judgment debtor has 30 days from the date of receipt of the notice to seek relief from the enforcement of the judgment, and that if the judgment is not satisfied and no such relief is sought within that 30 days, the judgment will be enforced in this State in the same manner as any judgment of this State.

"§ 1C-1705. Defenses; procedure.

(a) The judgment debtor may file a motion for relief from, or notice of defense to, the foreign judgment on the grounds that the foreign judgment has been appealed from, or enforcement has been stayed by, the court which rendered it, or on any other ground for which relief from a judgment of this State would be allowed.

(b) If the judgment debtor has filed a motion for relief or notice of defenses then the judgment creditor may move for enforcement of the foreign judgment as a judgment of this State. The judgment creditor's motion shall be heard before a judge of the trial division which would be the proper division for the trial of an action in which the amount in controversy is the same as the amount remaining unpaid on the foreign judgment. The Rules of Civil Procedure (G.S. 1A-1) shall apply. The judgment creditor shall have the burden of proving that the foreign judgment is entitled to full faith and credit.

"§ 1C-1706. Fees.

The enforcement of a foreign judgment under this Article shall be subject to the costs and fees set forth in Article 28 of Chapter 7A of the General Statutes. The amount remaining unpaid on the foreign judgment as set forth in the affidavit filed under G.S. 1C-1703(b) shall determine the amount of the costs to be collected at the time of the filing of the foreign judgment and assessed pursuant to G.S. 7A-305.

"§ 1C-1707. Optional procedure.

This Article may not be construed to impair a judgment creditor's right to bring a civil action in this State to enforce such creditor's judgment.

"§ 1C-1708. Judgments against public policy.

The provisions of this act shall not apply to foreign judgments based on claims which are contrary to the public policies of North Carolina."

Sec. 2. This act shall become effective October 1, 1989 and shall apply only to those foreign judgments rendered on or after October 1, 1984.

In the General Assembly read three times and ratified this the 9th day of August, 1989.