# SENATE BILL No. 320

**Introduced by Senator Corbett**

February 25, 2009

An act to amend Sections 1716 and 1717 of the Code of Civil Procedure, relating to judgments.

LEGISLATIVE COUNSEL'S DIGEST

SB 320, as introduced, Corbett. Judgments: foreign-country money judgments.

Existing law, Uniform Foreign-Country Money Judgments Recognition Act provides that foreign-country judgments that grant or deny recovery of a sum of money and that are final and conclusive are enforceable in California, with specified exceptions. The act excepts foreign-country judgments from its provisions in certain instances, including when the judgment was rendered under a system that does not provide impartial tribunals or the court lacked jurisdiction. The act prohibits nonrecognition of a foreign judgment based on a lack of personal jurisdiction if certain bases of personal jurisdiction are present.

This bill would additionally except from recognition under the act a defamation judgment obtained in a jurisdiction outside the United States, unless the court in this state first determines that the defamation law applied in the foreign court's adjudication provided at least as much protection for freedom of speech and the press in that case as would be provided by both the United States and California Constitutions. The bill would provide that a court of this state has personal jurisdiction over any person who obtains a judgment in a defamation proceeding outside the United States against any person who is a resident of California, or is a person or entity amenable to jurisdiction in California who has assets in California or may have to take actions in California to comply with the judgment, for the purposes of rendering declaratory

relief with respect to that person's liability for the judgment, or for the purpose of determining whether the judgment should be deemed nonrecognizable pursuant to the act, if the publication at issue was published in California, and the defendant has assets in California that might be used to satisfy the foreign defamation judgment or may have to take actions in California to comply with the foreign defamation judgment.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1716 of the Code of Civil Procedure is amended to read:

1716. (a) Except as otherwise provided in subdivisions (b) and (c), a court of this state shall recognize a foreign-country judgment to which this chapter applies.

(b) A court of this state 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 this state is not required to 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 this state 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.

*(9) The cause of action resulted in a defamation judgment obtained in a jurisdiction outside the United States, unless the court in this state first determines that the defamation law applied in the foreign court's adjudication provided at least as much protection for freedom of speech and the press in that case as would be provided by both the United States and California Constitutions.*

(d) ~~When~~ *If* the party seeking recognition of a foreign-country judgment has met its burden of establishing recognition of the foreign-country judgment pursuant to subdivision (c) of Section 1715, a party resisting recognition of a foreign-country judgment has the burden of establishing that a ground for nonrecognition stated in subdivision (b) or (c) exists.

SEC. 2. Section 1717 of the Code of Civil Procedure is amended to read:

1717. (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 or claim for relief arising out of business done by the defendant through that office in the foreign country.

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

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

*(c) A court of this state has personal jurisdiction over any person who obtains a judgment in a defamation proceeding outside the United States against any person who is a resident of California, or is a person or entity amenable to jurisdiction in California who has assets in California or may have to take actions in California to comply with the judgment, for the purposes of rendering declaratory relief with respect to that person's liability for the judgment, or for the purpose of determining whether the judgment should be deemed nonrecognizable pursuant to Section 1716, to the fullest extent permitted by the United States Constitution, if both of the following apply:*

*(1) The publication at issue was published in California.*

*(2) That resident, or person amenable to jurisdiction in California, either (A) has assets in California that might be used to satisfy the foreign defamation judgment, or (B) may have to take actions in California to comply with the foreign defamation judgment.*

*The provisions of this subdivision shall apply to persons who obtained judgments in defamation proceedings outside the United States both prior to, and after, January 1, 2010.*

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