

2017 SENATE JUDICIARY

SB 2169

2017 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

SB 2169
1/16/2017
26896

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to foreign money judgements.

Minutes:

Testimony attached #

1

Chairman Armstrong called the committee to order on SB 2169. All committee members were present.

Senator David Hogue, North Dakota District 38 Senator, introduced and testified in support of bill. (see attachment 1)

Senator Luick: "Currently, the act itself does this open it up for any foreign country? I know you mentioned Canada in your testimony but it's just not Canada, correct?"

Senator Hogue: "Correct. But they Have to meet the criteria. (see attachment 1 pg 2)."

Chairman Armstrong closed the hearing on SB 2169.

Senator Luick motioned a Do Pass. **Senator Osland** seconded.

A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0
The motion carried.

Senator Luick carried the bill.

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2169

Senate Judiciary Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Senator Luick Seconded By Senator Osland

Senators	Yes	No	Senators	Yes	No
Chairman Armstrong	X		Senator Osland	X	
Vice-Chair Larson	X				
Senator Luick	X				
Senator Myrdal	X				
Senator Nelson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Luick

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2169: Judiciary Committee (Sen. Armstrong, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2169 was placed on the
Eleventh order on the calendar.

2017 HOUSE JUDICIARY

SB 2169

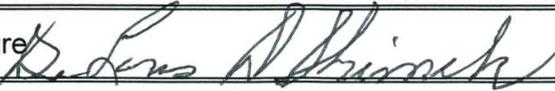
2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2169
3/21/2017
29509

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to foreign money judgements.

Minutes:

1

Chairman K. Koppelman: Opened the hearing on SB 2169.

Senator Hogue: (#1) Went through testimony. (:38-4:35)

Representative Hanson: Is there a statute of limitations within the US on money judgements?

Senator Hogue: Yes there is. If you obtain a judgement in ND it is recorded in a county of record and it is valid for ten years. However, you can renew that, but if you do nothing to renew the judgement it no longer operates as a lien against real estate ten years after it is entered.

Representative Vetter: If somebody sued me in Canada and got a judgement against me; they could enforce it here? Can Iran bring one here?

Senator Hogue: Correct. Iran; no. if you go to the standards we have under section 28-20.3.03; before a judge in this state would recognize a money judgement from another jurisdiction the courts would have to satisfy themselves that all of the following were true. The judgement was rendered under a judicial system that does not provide impartial tribunals for procedures compatible with the requirements of due process. Any country governed by Islamic law would not qualify. In most western democracies we do not recognize that religion has a legitimate place in deciding civil disputes. I would say no. This would be primarily Canada.

Chairman K. Koppelman: The purpose and effect of this bill is strictly to recognize foreign money judgements however it does not apply foreign law to any decision of a court in this state.

Senator Hogue: That is correct. ND laws governs on what assets could be seized; whether there is exemptions too.

Chairman K. Koppelman: We had a bill earlier that basically deals with that. It says only ND laws could apply.

Senator Hogue: That is correct. This is for a civil judgement for a specific dollar amount.

Chairman K. Koppelman: What is the process for getting a judgement recognized here.

Senator Hogue: From State to state the process is greatly streamlined. The court will direct that the judgement be recognized and be enrolled; typically, in the clerk of courts office or our recorder's office and that is it. We understand that judgements rendered in ND should be enforceable in Florida. The court has to make that inquiry that Rep. Vetter asked about. Where did this thing come from. Did it come from a jurisdiction what we consider our notions of due process.

Chairman K. Koppelman: Is the individual who the judgement might be obtained against; are they notified?

Senator Hogue: Yes. If I wasn't given notice. I could assert that defense. This new clean up act makes clear though that I have the burden of showing that I didn't get notice or I wasn't served. I don't get to say it shouldn't have been \$1 million; it should only have been \$1/2 million.

Representative Nelson: What is this changing what is now in law?

Senator Hogue: One; it clarifies who has burden of proof. The plaintive who is seeding enforcement of that money judgement has to go through and establish to the court that all of the elements have been met. It does establish a statute of limitations. Previously there is no Statute of Limitation. Under the current law there is no Statute of Limitations.

Representative Nelson: Then what happens. We are in a foreign country and we don't like their court system; how if you damage me in that country what civil remedy do I have?

Senator Hogue: You are asking, if I steel your money in Canada can I run to ND? You should hire a lawyer in ND to wherever I ran to have them peruse me here in ND.

Representative Nelson: I can obtain a judgement from you in ND for a business that we did in Iran?

Senator Hogue: Yes you can sue me wherever you can find me.

Representative Klemin: Under the standards of subsection 2 & 3; if you look at subsection 4 a party resisting recognition of a foreign country judgement has burden of establishing that a ground for non-recognition stated in subsection 2 or 3 exists so there is a shifting of burden of proof in the particular situation.

Senator Hogue: On the bottom of page 1 of my testimony I do get to that. That is exactly what it does.

Representative Jones: I noticed on the map that uniform law commission is doing this we have about half out states that are doing this. If we are going to be reaching across states and borders maybe we should include countries?

Senator Hogue: No this act doesn't affect recognition of judgements from foreign states. It is money judgements that aren't fines or taxes and it is foreign state.

Representative Paur: Does this happen in a district court?

Senator Hogue: Yes.

Representative Nelson: Would tribal courts be considered a foreign court under this act?

Senator Hogue: No I do not believe so. We also have provisions when we recognize judgements from tribal jurisdictions and that is not part of this.

Chairman K. Koppelman: The map indicated the states that have enacted. Do we know how many have enacted this update?

Senator Hogue: I read 30, but I am not sure if it was the original act or updated act?

Chairman K. Koppelman: On the statute of limitations; what is the statute of limitations on a domestic judgement?

Senator Hogue: The judgement that is obtained it presented to our recorder's office in the district court and it is valid for ten years. Judgements becomes liens on your property. The creditor can file one document and renew it so it can go on longer.

Chairman K. Koppelman: This bill has a 15-year window. Why is that?

Senator Hogue: I don't know the answer to that. It is an important issue that needs to be clarified. Generally, statute of limitations are good policies.

Representative Klemin: This is the statute of limitations bringing the action to ND. Once it is in ND it will be effective like anyone here does. The question is the time in which they must bring the action to file it in ND.

Chairman K. Koppelman: If you have a 12-year-old judgement from Canada you could make it current in ND under this provision?

Representative Roers Jones: Even though there is a ten-year limitation there is still the bar.

Senator Hogue: Rep. Klemin is right. The 15 years is the outer limit. If the underlying foreign judgement was no longer valid you could not enforce it in ND.

House Judiciary Committee

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Opposition: None

Neutral: None

Hearing closed.

2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2169
3/21/2017
29510

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to foreign money judgements.

Minutes:

Chairman K. Koppelman: Opened the meeting on SB 2169.

Do Pass motion made by Representative Maragos: Rep. Seconded by Rep. Klemin

Representative Vetter: I am a no on this. I think this committee took up this foreign laws in our state and now we are saying we will go ahead and accept somebody else's judgement. I asked him what countries and European was one of them so I could get sued in Italy and they can come under their laws and collect in ND. Why would we be considering this?

Representative Klemin: This is already the law in ND and has been for decades. This is an update of existing law. We want to do this so when we go to Canada we want our judgements to be honored over there.

Chairman K. Koppelman: Does this require reciprocity?

Representative Klemin: There are all these standards for recognition of foreign country judgements that have to be met here before we would recognize them.

Chairman K. Koppelman: What would be the affect if the bill fails? What are the differences and what would change from what is current law in ND?

Representative Klemin: One is who has the burden of proof on various of this; primarily it is the plaintiff that has burden of proof to show that. This more accurately clarifies who has the burden of proof and in what situation. There are some situations where the part resisting recognition has the burden of proof. That is stated in here. Explained the procedure and process in detail. I think that takes care of Rep. Vetter's concerns.

Chairman K. Koppelman: These two can peacefully coexist because the other bill dealt with the laws that applied in our courts. This bill doesn't deal with applying foreign law; it simply deals with what circumstances a judgement that has been obtained in a foreign country can be transferred into ND. I did check with the author of the other model act and he indicated the same thing. These are money judgements.

Closed.

2017 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

SB 2169
3/21/2017
29522

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to foreign money judgements.

Minutes:

Chairman K. Koppelman: Opened the meeting on SB 2169. We did have a do pass motion on this with discussion pending. Due to time restraints we had to closed the meeting.

Representative Klemin: Under our existing law we have there is no statute of limitations to bring the action. That was added into this new version as to what the statute of limitation is. What is in there is the earlier of whatever it is in that other country or 15 years. Right now we don't have any. No matter what it says there the parties can argue that the statute of limitation has expired or not expired and let the judge decide.

Representative Vetter: I am opposed to this bill because I feel like we are accepting other people's laws and we are going to accept their judgement. Why do we even have borders at all.

Representative Roers Jones: This is not about accepting Canadian laws or any other laws from other countries. If you consider someone coming from another country into Grand Forks; they would contract to have some work done and not pay on that contract. If you get a judgement against that person and they go back to Canada, you want to have the ability to go and attach your judgement to property that they might own in another country.

Representative Klemin: If we don't pass this bill then we still have the old law which has some deficiencies and that is why it was updated.

Chairman K. Koppelman: This bill essentially there is no reciprocity required; there is in the other bill. This one deals with any country whose system of justice is similar to ours. The other bill deals with protection orders. It is specific to Canada and there is reciprocity.

Roll Call Vote: 8 Yes 6 No 1 Absent Carrier: Rep. Jones

House Judiciary Committee

SB 2169

March 21, 2017

Page 2

Closed.

**2017 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SB 2169**

House Judiciary Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Maragos Seconded By Rep. Klemin

Representatives	Yes	No	Representatives	Yes	No
Chairman K. Koppelman		✓	Rep. Hanson	✓	
Vice Chairman Karls		✓	Rep. Nelson	✓	
Rep. Blum		✓			
Rep. Johnston		✓			
Rep. Jones	✓				
Rep. Klemin	✓				
Rep. Magrum	—				
Rep. Maragos	✓				
Rep. Paur	✓				
Rep. Roers-Jones	✓				
Rep. Satrom	✓				
Rep. Simons		✓			
Rep. Vetter		✓			

⁰ Total (Yes) 8 No 6

Absent 1

Floor Assignment Rep. Jones

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2169: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO PASS**
(8 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). SB 2169 was placed on the
Fourteenth order on the calendar.

2017 TESTIMONY

SB 2169

1

1 **TESTIMONY OF DAVID HOGUE IN SUPPORT OF SB 2169**

2 **Senate Judiciary Committee**

3 **January 16, 2017 9:30 am**

4

5

6 Good morning Chairman Armstrong and members of the committee. My
7 name is David Hogue. I am a North Dakota state senator representing District 38.
8 I am before your committee to testify in support of Senate Bill 2169.

9 SB 2169 updates our current foreign judgment recognition act. The current
10 act is codified at Chapter 28-20.2, of the North Dakota Century Code. This new
11 act does not make radical changes to the existing act, but makes improvements
12 and eliminates ambiguity by addressing several open questions. The original act
13 was drafted by the Uniform Law Commission in 1962. North Dakota adopted the
14 original act in 1969.

15 There are several improvements to the new act that counsel in favor of its
16 adoption. First, the new act makes clear that the party seeking to enforce a
17 foreign judgment bears the burden of proof that all elements of the statute have
18 been complied with. On the other hand, the new act makes clear that the party

1 asserting that a particular portion of the act that has not been complied with
2 bears the burden with respect to that element.

3 Another important improvement is the establishment of a statute of
4 limitations for foreign judgments. The statute runs 15 years after the judgment is
5 effective in the country of origin.

6 Chairman Armstrong and committee members, thank you for your
7 consideration of this bill.

8

#1
2169
3-21-17

1 **TESTIMONY OF DAVID HOGUE IN SUPPORT OF SB 2169**

2 **House Judiciary Committee**

3 **March 21, 2017 9:00 am**

4
5
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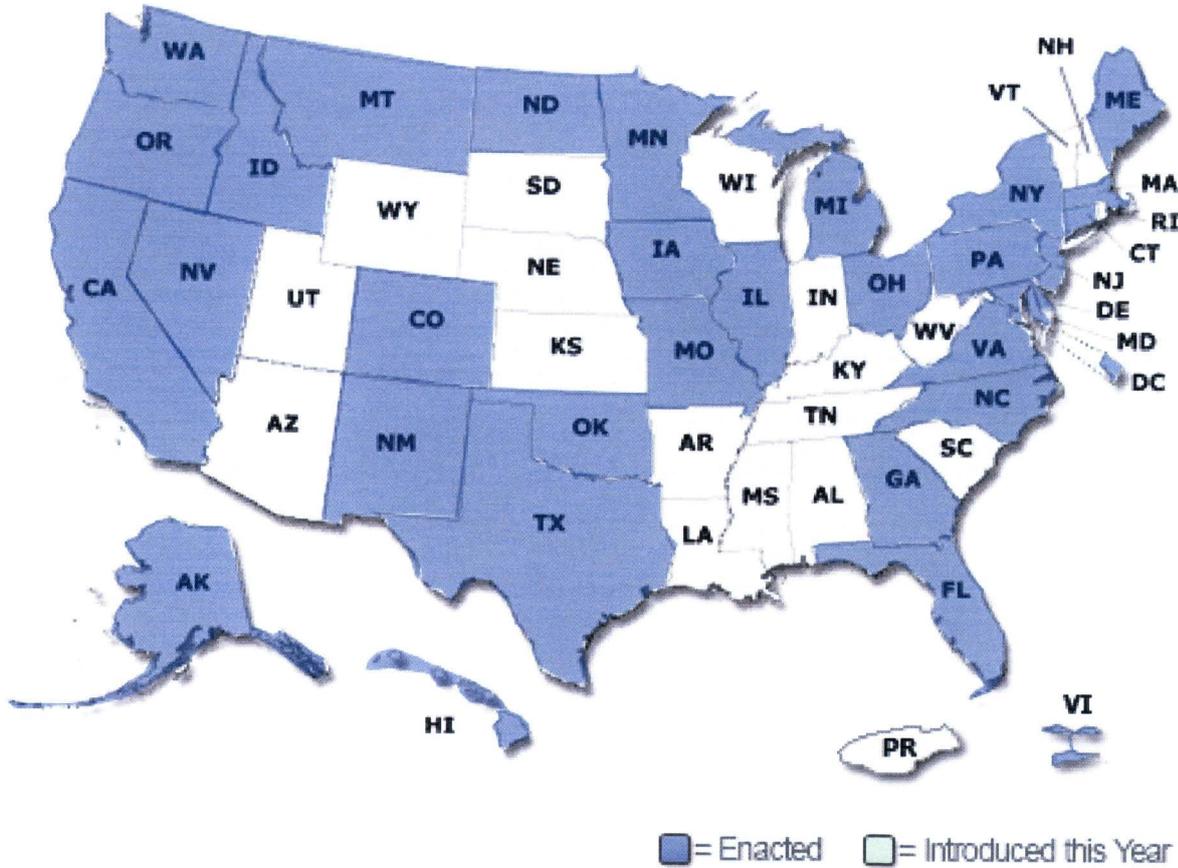


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Legislative Enactment Status Foreign Money Judgments Recognition Act



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