

FOREIGN JUDGEMENT ENFORCEMENT

The 1964 Foreign Judgment Act allowed the states to enforce a judgment from another state without the expense of litigation. There are notable exceptions, which is why legal action should be always commence in the state where the defendant is domiciled. A foreign judgment must be filed with the Clerk of the Court in the county in which the attempt is being made to enforce the judgment. This should include any enforcement proceedings such as the Writ of Execution upon assets, etc. The steps that must be taken are as follows:

- Obtain an original exemplified copy of the judgment (a triple certified copy) from the court where the judgment was granted.
- File an affidavit with the exemplified judgment together with a filing fee for the Court Clerk. Be sure the affidavit includes the name and last known address of all parties to the judgment.
- Mail the “notice” by means of proven receipt such as by Certified Mail to all judgment parties. Entitle this notice document as “NOTICE OF FILING FOREIGN JUDGMENT” and include the affidavit and exemplified copy of the judgment.

It is very easy for the court to deny recognizing the foreign judgment. One reason for denial is an appeal, which is pending in the original court. A “stay” may be granted if a debtor can allege grounds exist in the courts jurisdiction where the foreign judgment is being filed, thus creating a “stay” preventing the foreign judgment from being recorded. Such grounds include, lack of sufficient notice in obtaining the original judgment, the judgment was obtained by fraud, the cause of action conflicts with state policies in the state where the foreign judgment is to be filed, the judgment conflicts with another final judgment, or lack of jurisdiction over the debtor in the original judgment.

A “stay” by the debtor must be filed within 30 days of receipt of the notice of the filing of the foreign judgment or sixty days if the debtor is not a resident of the state. Ten days after a foreign judgment is filed and notice has been given to the judgment debtor, the creditor may begin enforcement of the judgment by means allowed by law within the state in which the foreign judgment has been registered.

It is very easy for a debtor to request a “stay” or be granted denial of having the foreign judgment recorded. This means that a creditor runs the risk of having to file suit twice on the same overdue balance. The rule of “Sufficient of Contact” must be applied to establish jurisdiction. Most states vary considerably on what determines “sufficient notice” when obtaining the original judgment. If there were a flaw or it was inconsistent with the court where the foreign judgment is to be recorded, then the courts will not allow the foreign judgment to be enforced.