

# State of South Dakota

EIGHTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2013

832U0592

## HOUSE JUDICIARY ENGROSSED NO. **SB 174** 02/25/2013

Introduced by: Senator Lederman and Representatives Hoffman and Stevens

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to out-of-country  
2 foreign judgments.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. An out-of-country foreign judgment need not be recognized and entitled to full  
5 faith and credit in the State of South Dakota, unless there has been opportunity for a full and fair  
6 trial abroad before a court of competent jurisdiction, conducting the trial upon regular  
7 proceedings, after due citation or voluntary appearance of the defendant, and under a system of  
8 jurisprudence likely to secure an impartial administration of justice between the citizens of its  
9 own country and those of other countries, and there is nothing to show either prejudice in the  
10 court or in the system of laws under which it was sitting, or fraud in procuring the judgment, or  
11 any other special reason why the comity of the State of South Dakota should not allow it full  
12 effect.

13 Section 2. In deciding whether to enforce and recognize an out-of-country foreign judgment,  
14 the court shall consider the following factors when deciding whether to enforce and recognize  
15 a out-of-country foreign judgment, to wit:



- 1 (1) The foreign court actually had jurisdiction over both the subject matter and the  
2 parties;
- 3 (2) The judgment was not obtained fraudulently;
- 4 (3) The judgment was rendered by a system of law reasonably assuring the requisites of  
5 an impartial administration of justice which includes due notice and a hearing;
- 6 (4) The judgment did not contravene the public policy of the jurisdiction in which it is  
7 relied upon; and
- 8 (5) The jurisdiction issuing the order or judgment also grants comity to orders and  
9 judgments of South Dakota courts.

10 Section 3. In matters concerning defamation, the court, before it recognizes an out-of-  
11 country foreign judgment, shall by clear and convincing evidence, find that the law applied in  
12 the foreign court's adjudication, which resulted in a judgment, provided at least as much  
13 protection for freedom of speech and the press as would be provided by the United States  
14 Constitution and the Constitution of the State of South Dakota, in addition to the criteria set  
15 forth in section 2 of this Act.

16 Section 4. This Act applies to judgments rendered in defamation proceedings outside the  
17 United States before, on, or after July 1, 2013, but does not apply to any out-of-country foreign  
18 judgment already recognized by the courts of this state prior to July 1, 2013.