

HOUSE BILL NO. 123

INTRODUCED BY SPAETH, MAZUREK, ADDY, MERCER, COBB

IN THE HOUSE

JANUARY 11, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 12, 1989	FIRST READING.
JANUARY 25, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 26, 1989	PRINTING REPORT.
JANUARY 27, 1989	SECOND READING, DO PASS.
JANUARY 28, 1989	ENGROSSING REPORT.
JANUARY 30, 1989	THIRD READING, PASSED. AYES, 95; NOES, 3.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 31, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 9, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
FEBRUARY 11, 1989	SECOND READING, CONCURRED IN.
FEBRUARY 14, 1989	THIRD READING, CONCURRED IN. AYES, 44; NOES, 3.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

FEBRUARY 27, 1989

PASSED CONSIDERATION FOR THE DAY.

FEBRUARY 28, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 1, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL No. 123
 2 INTRODUCED BY Spencer, Mercer, Cobb, [Signature]
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE UNIFORM
 5 ENFORCEMENT OF FOREIGN JUDGMENTS ACT."
 6

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8 NEW SECTION. Section 1. Short title. [This act] may
 9 be cited as the "Uniform Enforcement of Foreign Judgments
 10 Act".

11 NEW SECTION. Section 2. Definition. In [this act],
 12 "foreign judgment" means a judgment, decree, or order of a
 13 court of the United States or of any other court which is
 14 entitled to full faith and credit in this state.

15 NEW SECTION. Section 3. Filing and status of foreign
 16 judgments. A copy of any foreign judgment authenticated in
 17 accordance with an act of congress or the statutes of this
 18 state may be filed in the office of the clerk of any
 19 district court of this state. The clerk shall treat the
 20 foreign judgment in the same manner as a judgment of a
 21 district court of this state. A judgment so filed has the
 22 same effect and is subject to the same procedures, defenses,
 23 and proceedings for reopening, vacating, or staying as a
 24 judgment of a district court of this state and may be
 25 enforced or satisfied in like manner.

1 NEW SECTION. Section 4. Notice of filing. (1) At the
 2 time of the filing of a foreign judgment, the judgment
 3 creditor or his lawyer shall make and file with the clerk of
 4 court an affidavit setting forth the name and last-known
 5 post office address of the judgment debtor and the judgment
 6 creditor.

7 (2) Promptly upon the filing of the foreign judgment
 8 and the affidavit, the clerk shall mail notice of the filing
 9 of the foreign judgment to the judgment debtor at the
 10 address given and shall make a note of the mailing in the
 11 docket. The notice must include the name and post office
 12 address of the judgment creditor and the judgment creditor's
 13 lawyer, if any, in this state. In addition, the judgment
 14 creditor may mail a notice of the filing of the judgment to
 15 the judgment debtor and may file proof of mailing with the
 16 clerk. Lack of mailing notice of filing by the clerk does
 17 not affect enforcement proceedings if proof of mailing by
 18 the judgment creditor has been filed.

19 (3) No execution or other process for enforcement of a
 20 foreign judgment filed under [section 3] shall issue until
 21 20 days after the date the judgment is filed.

22 NEW SECTION. Section 5. Stay. (1) If the judgment
 23 debtor shows a district court that an appeal from the
 24 foreign judgment is pending or will be taken or that a stay
 25 of execution has been granted, the court shall stay

1 enforcement of the foreign judgment until the appeal is
2 concluded, the time for appeal expires, or the stay of
3 execution expires or is vacated, upon proof that the
4 judgment debtor has furnished the security for the
5 satisfaction of the judgment required by the state in which
6 it was rendered.

7 (2) If the judgment debtor shows the district court
8 any ground upon which enforcement of a judgment of any
9 district court of this state would be stayed, the court
10 shall stay enforcement of the foreign judgment for an
11 appropriate period, upon requiring the same security for
12 satisfaction of a judgment that is required in this state.

13 NEW SECTION. **Section 6.** Fees. Any person filing a
14 foreign judgment shall pay to the clerk of court a fee of
15 \$60. Fees for docketing, transcription, or other enforcement
16 proceedings must be as provided for judgments of the
17 district court.

18 NEW SECTION. **Section 7.** Optional procedure. The right
19 of a judgment creditor to bring an action to enforce his
20 judgment instead of proceeding under [this act] remains
21 unimpaired.

22 NEW SECTION. **Section 8.** Uniformity of interpretation.
23 [This act] must be so interpreted and construed as to
24 effectuate its general purpose to make uniform the law of
25 those states which enact it.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

1 *HOUSE BILL NO. 123*
2 INTRODUCED BY *Spencer Mackenzie*
3 *MERCER Cobb*
4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE UNIFORM
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19 district court of this state. The clerk shall treat the
20 foreign judgment in the same manner as a judgment of a
21 district court of this state. A judgment so filed has the
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23 and proceedings for reopening, vacating, or staying as a
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14 creditor may mail a notice of the filing of the judgment to
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17 not affect enforcement proceedings if proof of mailing by
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2 concluded, the time for appeal expires, or the stay of
3 execution expires or is vacated, upon proof that the
4 judgment debtor has furnished the security for the
5 satisfaction of the judgment required by the state in which
6 it was rendered.

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19 of a judgment creditor to bring an action to enforce his
20 judgment instead of proceeding under [this act] remains
21 unimpaired.

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23 [This act] must be so interpreted and construed as to
24 effectuate its general purpose to make uniform the law of
25 those states which enact it.

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 2 INTRODUCED BY Spencer Maguire
 3 MONTANA COB
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 17 accordance with an act of congress or the statutes of this
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 8 and the affidavit, the clerk shall mail notice of the filing
 9 of the foreign judgment to the judgment debtor at the
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 12 address of the judgment creditor and the judgment creditor's
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 14 creditor may mail a notice of the filing of the judgment to
 15 the judgment debtor and may file proof of mailing with the
 16 clerk. Lack of mailing notice of filing by the clerk does
 17 not affect enforcement proceedings if proof of mailing by
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2 concluded, the time for appeal expires, or the stay of
3 execution expires or is vacated, upon proof that the
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5 satisfaction of the judgment required by the state in which
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8 any ground upon which enforcement of a judgment of any
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19 of a judgment creditor to bring an action to enforce his
20 judgment instead of proceeding under [this act] remains
21 unimpaired.

22 NEW SECTION. **Section 8. Uniformity of interpretation.**
23 [This act] must be so interpreted and construed as to
24 effectuate its general purpose to make uniform the law of
25 those states which enact it.

-End-

SENATE STANDING COMMITTEE REPORT

February 9, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 123 (third reading copy -- blue), respectfully report that HB 123 be amended and as so amended be concurred in:

Sponsor: Spaeth (Mazurek)

1. Page 2, lines 1 through 21.

Strike: section 4 in its entirety

Insert: "NEW SECTION. Section 4. Notice of filing. (1) At the time of the filing of the foreign judgment, the judgment creditor or his attorney shall file with the clerk of the court an affidavit setting forth the name and last-known post-office address of the judgment debtor and the judgment creditor. The affidavit must also include a statement that the foreign judgment is valid and enforceable, and the extent to which it has been satisfied.

(2) Promptly upon filing the foreign judgment and affidavit, the judgment creditor or someone on his behalf shall mail notice of the filing of the judgment and affidavit, attaching a copy of each to the notice, to the judgment debtor and to his attorney of record, if any, each at his last-known address by certified mail, return receipt requested. The notice must include the name and post-office address of the judgment creditor and the judgment creditor's attorney, if any, in this state. The judgment creditor shall file with the clerk of the court an affidavit setting forth the date upon which the notice was mailed.

(3) The proceeds of an execution must not be distributed to the judgment creditor earlier than 30 days after the date of mailing the notice of filing."

AND AS AMENDED BE CONCURRED IN

Signed: 

Bruce D. Crippen, Chairman

SENATE

HOUSE BILL NO. 123

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NEW SECTION. Section 3. Filing and status of foreign judgments. 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 any district court of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of a district court of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of a district court of this state and may be enforced or satisfied in like manner.

NEW SECTION. Section 4. Notice of filing. (1) At the

time of the filing of a foreign judgment, the judgment creditor or his lawyer shall make and file with the clerk of court an affidavit setting forth the name and last-known post-office address of the judgment debtor and the judgment creditor.

(2) Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice must include the name and post-office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Back of mailing notice of filing by the clerk does not affect enforcement proceedings if proof of mailing by the judgment creditor has been filed.

(3) No execution or other process for enforcement of a foreign judgment filed under {section 3} shall issue until 20 days after the date the judgment is filed.

NEW SECTION. SECTION 4. NOTICE OF FILING. (1) AT THE TIME OF THE FILING OF THE FOREIGN JUDGMENT, THE JUDGMENT CREDITOR OR HIS ATTORNEY SHALL FILE WITH THE CLERK OF THE COURT AN AFFIDAVIT SETTING FORTH THE NAME AND LAST-KNOWN

1 POST-OFFICE ADDRESS OF THE JUDGMENT DEBTOR AND THE JUDGMENT
 2 CREDITOR. THE AFFIDAVIT MUST ALSO INCLUDE A STATEMENT THAT
 3 THE FOREIGN JUDGMENT IS VALID AND ENFORCEABLE, AND THE
 4 EXTENT TO WHICH IT HAS BEEN SATISFIED.

5 (2) PROMPTLY UPON FILING THE FOREIGN JUDGMENT AND
 6 AFFIDAVIT, THE JUDGMENT CREDITOR OR SOMEONE ON HIS BEHALF
 7 SHALL MAIL NOTICE OF THE FILING OF THE JUDGMENT AND
 8 AFFIDAVIT, ATTACHING A COPY OF EACH TO THE NOTICE, TO THE
 9 JUDGMENT DEBTOR AND TO HIS ATTORNEY OF RECORD, IF ANY, EACH
 10 AT HIS LAST-KNOWN ADDRESS BY CERTIFIED MAIL, RETURN RECEIPT
 11 REQUESTED. THE NOTICE MUST INCLUDE THE NAME AND POST-OFFICE
 12 ADDRESS OF THE JUDGMENT CREDITOR AND THE JUDGMENT CREDITOR'S
 13 ATTORNEY, IF ANY, IN THIS STATE. THE JUDGMENT CREDITOR SHALL
 14 FILE WITH THE CLERK OF THE COURT AN AFFIDAVIT SETTING FORTH
 15 THE DATE UPON WHICH THE NOTICE WAS MAILED.

16 (3) THE PROCEEDS OF AN EXECUTION MUST NOT BE
 17 DISTRIBUTED TO THE JUDGMENT CREDITOR EARLIER THAN 30 DAYS
 18 AFTER THE DATE OF MAILING THE NOTICE OF FILING.

19 NEW SECTION. Section 5. Stay. (1) If the judgment
 20 debtor shows a district court that an appeal from the
 21 foreign judgment is pending or will be taken or that a stay
 22 of execution has been granted, the court shall stay
 23 enforcement of the foreign judgment until the appeal is
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