

HOUSE BILL NO. 234

INTRODUCED BY TOOLE, J. RICE

IN THE HOUSE

JANUARY 19, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 1, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 2, 1993	PRINTING REPORT.
FEBRUARY 3, 1993	SECOND READING, DO PASS.
FEBRUARY 4, 1993	ENGROSSING REPORT.
FEBRUARY 5, 1993	THIRD READING, PASSED. AYES, 96; NOES, 2.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 8, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 11, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 12, 1993	SECOND READING, CONCURRED IN.
MARCH 13, 1993	THIRD READING, CONCURRED IN. AYES, 47; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 15, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 234  
2 INTRODUCED BY Frank Fort  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE UNIFORM  
5 FOREIGN-MONEY CLAIMS ACT; PROVIDING FOR THE JUDICIAL  
6 DETERMINATION OF CLAIMS EXPRESSED IN THE MONEY OF FOREIGN  
7 COUNTRIES; ADOPTING THE DATE OF PAYMENT AS THE DATE FOR  
8 DETERMINING THE TIME FOR CONVERTING THE FOREIGN MONEY INTO  
9 UNITED STATES DOLLARS; PROVIDING A METHOD FOR DETERMINING  
10 REVALORIZATION AND INTEREST; AND PROVIDING AN APPLICABILITY  
11 DATE."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. Short title. [Sections 1  
15 through 15] may be cited as the "Uniform Foreign-Money  
16 Claims Act".

17 NEW SECTION. Section 2. Definitions. In [sections 1  
18 through 15], the following definitions apply:

19 (1) "Action" means a judicial proceeding or arbitration  
20 in which a payment in money may be awarded or enforced with  
21 respect to a foreign-money claim.

22 (2) "Bank-offered spot rate" means the spot rate of  
23 exchange at which a bank will sell foreign money at a spot  
24 rate.

25 (3) "Conversion date" means the banking day preceding

1 the date on which money, in accordance with [sections 1  
2 through 15], is:

3 (a) paid to a claimant in an action or distribution  
4 proceeding;

5 (b) paid to the official designated by law to enforce a  
6 judgment or award on behalf of a claimant; or

7 (c) used to recoup, setoff, or counterclaim in  
8 different money in an action or distribution proceeding.

9 (4) "Distribution proceeding" means a judicial or  
10 nonjudicial proceeding for the distribution of a fund in  
11 which one or more foreign-money claims are asserted and  
12 includes an accounting, an assignment for the benefit of  
13 creditors, a foreclosure, the liquidation or rehabilitation  
14 of a corporation or other entity, and the distribution of an  
15 estate, trust, or other fund.

16 (5) "Foreign money" means money other than money of the  
17 United States of America.

18 (6) "Foreign-money claim" means a claim upon an  
19 obligation to pay or a claim for recovery of a loss,  
20 expressed in or measured by a foreign money.

21 (7) "Money" means a medium of exchange for the payment  
22 of obligations or a store of value authorized or adopted by  
23 a government or by intergovernmental agreement.

24 (8) "Money of the claim" means the money determined as  
25 proper pursuant to [section 5].

(9) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, joint venture, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(10) "Rate of exchange" means the rate at which money of one country may be converted into money of another country in a free financial market convenient to or reasonably usable by a person obligated to pay or to state a rate of conversion. If separate rates of exchange apply to different kinds of transactions, the term means the rate applicable to the particular transaction giving rise to the foreign-money claim.

(11) "Spot rate" means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for immediate or next day availability or for settlement by immediate payment in cash or equivalent, by charge to an account, or by an agreed delayed settlement not exceeding 2 days.

(12) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

**NEW SECTION. Section 3. Scope.** (1) [Sections 1 through 15] apply only to a foreign-money claim in an action or

distribution proceeding.

(2) [Sections 1 through 15] apply to foreign-money issues even if other law under the conflict-of-laws rules of this state applies to other issues in the action or distribution proceeding.

**NEW SECTION. Section 4. Variation by agreement.** (1) The effect of [sections 1 through 15] may be varied by agreement of the parties made before or after commencement of an action or distribution proceeding or the entry of judgment.

(2) Parties to a transaction may agree upon the money to be used in a transaction giving rise to a foreign-money claim and may agree to use different money for different aspects of the transaction. Stating the price in a foreign money for one aspect of a transaction does not alone require the use of that money for other aspects of the transaction.

**NEW SECTION. Section 5. Determining money of claim.** (1) The money in which the parties to a transaction have agreed that payment is to be made is the proper money of the claim for payment.

(2) If the parties to a transaction have not otherwise agreed, the proper money of the claim, as in each case may be appropriate, is the money:

(a) regularly used between the parties as a matter of usage or course of dealing;

(b) used at the time of a transaction in international trade, by trade usage or common practice, for valuing or settling transactions in the particular commodity or service involved; or

(c) in which the loss was ultimately felt or will be incurred by the party claimant.

**NEW SECTION. Section 6. Determining amount of money of certain contract claims.** (1) If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.

(2) If an amount contracted to be paid in a foreign money is to be measured by a different money at the rate of exchange prevailing on a date before default, that rate of exchange applies only to payments made within a reasonable time after default, not exceeding 30 days. Thereafter, conversion is made at the bank-offered spot rate on the conversion date.

(3) A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money, when received by the creditor, must equal a specified amount of the foreign money of the country of the creditor. If, because of unexcused delay in payment of a judgment or award, the amount received by the

creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator shall amend the judgment or award accordingly.

**NEW SECTION. Section 7. Asserting and defending foreign-money claim.** (1) A person may assert a claim in a specified foreign money. If a foreign-money claim is not asserted, the claimant makes the claim in United States dollars.

(2) An opposing party may allege and prove that a claim, in whole or in part, is in a different money than that asserted by the claimant.

(3) A person may assert a defense, setoff, recoupment, or counterclaim in any money without regard to the money of other claims.

(4) The determination of the proper money of the claim is a question of law.

**NEW SECTION. Section 8. Judgments and awards on foreign-money claims -- times of money conversion -- form of judgment.** (1) Except as provided in subsection (3), a judgment or award on a foreign-money claim must be stated in an amount of the money of the claim.

(2) A judgment or award on a foreign-money claim is payable in that foreign money or, at the option of the debtor, in the amount of United States dollars that will purchase that foreign money on the conversion date at a

1 bank-offered spot rate.

2 (3) Assessed costs must be entered in United States  
3 dollars.

4 (4) Each payment in United States dollars must be  
5 accepted and credited on a judgment or award on a  
6 foreign-money claim in the amount of the foreign money that  
7 could be purchased by the dollars at a bank-offered spot  
8 rate of exchange at or near the close of business on the  
9 conversion date for that payment.

10 (5) A judgment or award made in an action or  
11 distribution proceeding on both a defense, setoff,  
12 recoupment, or counterclaim and the adverse party's claim  
13 must be netted by converting the money of the smaller into  
14 the money of the larger and by subtracting the smaller from  
15 the larger and must specify the rates of exchange used.

16 (6) A judgment substantially in the following form  
17 complies with subsection (1):

18 IT IS ADJUDGED AND ORDERED, that Defendant

19 (insert name) pay to Plaintiff

20 (insert name) the sum of (insert amount in the foreign  
21 money) plus interest on that sum at the rate of (insert  
22 rate - see [section 10]) % a year or, at the option of the  
23 judgment debtor, the number of United States dollars that  
24 will purchase the (insert name of foreign money) with  
25 interest due, at a bank-offered spot rate at or near the

1 close of business on the banking day before the day of  
2 payment, together with assessed costs of (insert amount)  
3 United States dollars.

4 (7) If a contract claim is of the type covered by  
5 [section 6(1) or (2)], the judgment or award must be entered  
6 for the amount of money stated to measure the obligation to  
7 be paid in the money specified for payment or, at the option  
8 of the debtor, the number of United States dollars that will  
9 purchase the computed amount of the money of payment on the  
10 conversion date at a bank-offered spot rate.

11 (8) A judgment must be filed and indexed in foreign  
12 money in the same manner, and has the same effect as a lien,  
13 as other judgments. It may be discharged by payment.

14 **NEW SECTION. Section 9. Conversions of foreign money**  
15 **in distribution proceeding.** The rate of exchange prevailing  
16 at or near the close of business on the day the distribution  
17 proceeding is initiated governs all exchanges of foreign  
18 money in a distribution proceeding. A foreign-money claimant  
19 in a distribution proceeding shall assert its claim in the  
20 named foreign money and show the amount of United States  
21 dollars resulting from a conversion as of the date the  
22 proceeding was initiated.

23 **NEW SECTION. Section 10. Prejudgment and judgment**  
24 **interest.** (1) Except as provided in subsection (2), recovery  
25 of prejudgment or preaward interest and the rate of interest

to be applied in the action or distribution proceeding, with respect to a foreign-money claim, are matters of the substantive law governing the right to recovery under the conflict-of-laws rules of this state.

(2) The court or arbitrator shall increase or decrease the amount of prejudgment or preaward interest otherwise payable in a judgment or award in foreign money to the extent required by the law of this state governing a failure to make or accept an offer of settlement or offer of judgment or governing conduct by a party or its attorney causing undue delay or expense.

(3) A judgment or award on a foreign-money claim bears interest at the rate applicable to judgments of this state.

**NEW SECTION. Section 11. Enforcement of foreign judgments.** (1) If an action is brought to enforce a judgment of another jurisdiction expressed in a foreign money and the judgment is recognized in this state as enforceable, the enforcing judgment must be entered as provided in [section 8], whether or not the foreign judgment confers an option to pay in an equivalent amount of United States dollars.

(2) A foreign judgment may be filed in accordance with any rule or statute of this state providing a procedure for its recognition and enforcement.

(3) A satisfaction or partial payment made upon the

foreign judgment, on proof thereof, must be credited against the amount of foreign money specified in the judgment, notwithstanding the entry of judgment in this state.

(4) A judgment entered on a foreign-money claim only in United States dollars in another state must be enforced in this state in United States dollars only.

**NEW SECTION. Section 12. Determining United States dollar value of foreign-money claims for limited purposes.**

(1) Computations under this section are for the limited purposes of this section and do not affect computation of the United States dollar equivalent of the money of the judgment for the purpose of payment.

(2) For the limited purpose of facilitating the enforcement of provisional remedies in an action, the value in United States dollars of assets to be seized or restrained pursuant to a writ of attachment, garnishment, execution, or other legal process, the amount of United States dollars at issue for assessing costs, or the amount of United States dollars involved for a surety bond or other court-required undertaking must be ascertained as provided in subsections (3) and (4).

(3) A party seeking process, costs, bond, or other undertaking under subsection (2) shall compute in United States dollars the amount of the foreign money claimed from a bank-offered spot rate prevailing at or near the close of

business on the banking day preceding the filing of a request or application for the issuance of process, for the determination of costs, or for an application for a bond or other court-required undertaking.

(4) A party seeking the process, costs, bond, or other undertaking under subsection (2) shall file with each request or application an affidavit or certificate executed in good faith by its counsel or a bank officer, stating the market quotation used and how it was obtained, and setting forth the calculation. Affected court officials incur no liability, after a filing of the affidavit or certificate, for acting as if the judgment were in the amount of United States dollars stated in the affidavit or certificate.

**NEW SECTION. Section 13. Effect of currency revalorization.** (1) If, after an obligation is expressed or a loss is incurred in a foreign money, the country issuing or adopting that money substitutes a new money in place of that money, the obligation or the loss is treated as if expressed or incurred in the new money at the rate of conversion the issuing country establishes for the payment of like obligations or losses denominated in the former money.

(2) If substitution under subsection (1) occurs after a judgment or award is entered on a foreign-money claim, the court or arbitrator shall amend the judgment or award by a

like conversion of the former money.

**NEW SECTION. Section 14. Supplementary general principles of law.** Unless displaced by particular provisions of [sections 1 through 15], the principles of law and equity, including the law merchant, and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating causes supplement its provisions.

**NEW SECTION. Section 15. Uniformity of application and construction.** [Sections 1 through 15] must be applied and construed to effectuate the general purpose to make uniform the law with respect to the subject of [sections 1 through 15] among states enacting it.

**NEW SECTION. Section 16. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 17. Applicability.** [This act] applies to actions and distribution proceedings commenced after October 1, 1993.

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

1 House BILL NO. 234  
2 INTRODUCED BY Frank Fort Rice

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE UNIFORM  
5 FOREIGN-MONEY CLAIMS ACT; PROVIDING FOR THE JUDICIAL  
6 DETERMINATION OF CLAIMS EXPRESSED IN THE MONEY OF FOREIGN  
7 COUNTRIES; ADOPTING THE DATE OF PAYMENT AS THE DATE FOR  
8 DETERMINING THE TIME FOR CONVERTING THE FOREIGN MONEY INTO  
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20 in which a payment in money may be awarded or enforced with  
21 respect to a foreign-money claim.

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23 exchange at which a bank will sell foreign money at a spot  
24 rate.

25 (3) "Conversion date" means the banking day preceding

1 the date on which money, in accordance with [sections 1  
2 through 15], is:

3 (a) paid to a claimant in an action or distribution  
4 proceeding;

5 (b) paid to the official designated by law to enforce a  
6 judgment or award on behalf of a claimant; or

7 (c) used to recoup, setoff, or counterclaim in  
8 different money in an action or distribution proceeding.

9 (4) "Distribution proceeding" means a judicial or  
10 nonjudicial proceeding for the distribution of a fund in  
11 which one or more foreign-money claims are asserted and  
12 includes an accounting, an assignment for the benefit of  
13 creditors, a foreclosure, the liquidation or rehabilitation  
14 of a corporation or other entity, and the distribution of an  
15 estate, trust, or other fund.

16 (5) "Foreign money" means money other than money of the  
17 United States of America.

18 (6) "Foreign-money claim" means a claim upon an  
19 obligation to pay or a claim for recovery of a loss,  
20 expressed in or measured by a foreign money.

21 (7) "Money" means a medium of exchange for the payment  
22 of obligations or a store of value authorized or adopted by  
23 a government or by intergovernmental agreement.

24 (8) "Money of the claim" means the money determined as  
25 proper pursuant to [section 5].



(9) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, joint venture, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(10) "Rate of exchange" means the rate at which money of one country may be converted into money of another country in a free financial market convenient to or reasonably usable by a person obligated to pay or to state a rate of conversion. If separate rates of exchange apply to different kinds of transactions, the term means the rate applicable to the particular transaction giving rise to the foreign-money claim.

(11) "Spot rate" means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for immediate or next day availability or for settlement by immediate payment in cash or equivalent, by charge to an account, or by an agreed delayed settlement not exceeding 2 days.

(12) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

**NEW SECTION. Section 3. Scope.** (1) [Sections 1 through 15] apply only to a foreign-money claim in an action or

distribution proceeding.

(2) [Sections 1 through 15] apply to foreign-money issues even if other law under the conflict-of-laws rules of this state applies to other issues in the action or distribution proceeding.

**NEW SECTION. Section 4. Variation by agreement.** (1) The effect of [sections 1 through 15] may be varied by agreement of the parties made before or after commencement of an action or distribution proceeding or the entry of judgment.

(2) Parties to a transaction may agree upon the money to be used in a transaction giving rise to a foreign-money claim and may agree to use different money for different aspects of the transaction. Stating the price in a foreign money for one aspect of a transaction does not alone require the use of that money for other aspects of the transaction.

**NEW SECTION. Section 5. Determining money of claim.** (1) The money in which the parties to a transaction have agreed that payment is to be made is the proper money of the claim for payment.

(2) If the parties to a transaction have not otherwise agreed, the proper money of the claim, as in each case may be appropriate, is the money:

(a) regularly used between the parties as a matter of usage or course of dealing;

(b) used at the time of a transaction in international trade, by trade usage or common practice, for valuing or settling transactions in the particular commodity or service involved; or

(c) in which the loss was ultimately felt or will be incurred by the party claimant.

**NEW SECTION. Section 6. Determining amount of money of certain contract claims.** (1) If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.

(2) If an amount contracted to be paid in a foreign money is to be measured by a different money at the rate of exchange prevailing on a date before default, that rate of exchange applies only to payments made within a reasonable time after default, not exceeding 30 days. Thereafter, conversion is made at the bank-offered spot rate on the conversion date.

(3) A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money, when received by the creditor, must equal a specified amount of the foreign money of the country of the creditor. If, because of unexcused delay in payment of a judgment or award, the amount received by the

creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator shall amend the judgment or award accordingly.

**NEW SECTION. Section 7. Asserting and defending foreign-money claim.** (1) A person may assert a claim in a specified foreign money. If a foreign-money claim is not asserted, the claimant makes the claim in United States dollars.

(2) An opposing party may allege and prove that a claim, in whole or in part, is in a different money than that asserted by the claimant.

(3) A person may assert a defense, setoff, recoupment, or counterclaim in any money without regard to the money of other claims.

(4) The determination of the proper money of the claim is a question of law.

**NEW SECTION. Section 8. Judgments and awards on foreign-money claims -- times of money conversion -- form of judgment.** (1) Except as provided in subsection (3), a judgment or award on a foreign-money claim must be stated in an amount of the money of the claim.

(2) A judgment or award on a foreign-money claim is payable in that foreign money or, at the option of the debtor, in the amount of United States dollars that will purchase that foreign money on the conversion date at a

bank-offered spot rate.

(3) Assessed costs must be entered in United States dollars.

(4) Each payment in United States dollars must be accepted and credited on a judgment or award on a foreign-money claim in the amount of the foreign money that could be purchased by the dollars at a bank-offered spot rate of exchange at or near the close of business on the conversion date for that payment.

(5) A judgment or award made in an action or distribution proceeding on both a defense, setoff, recoupment, or counterclaim and the adverse party's claim must be netted by converting the money of the smaller into the money of the larger and by subtracting the smaller from the larger and must specify the rates of exchange used.

(6) A judgment substantially in the following form complies with subsection (1):

IT IS ADJUDGED AND ORDERED, that Defendant

(insert name) pay to Plaintiff

(insert name) the sum of (insert amount in the foreign money) plus interest on that sum at the rate of (insert rate - see [section 10]) % a year or, at the option of the judgment debtor, the number of United States dollars that will purchase the (insert name of foreign money) with interest due, at a bank-offered spot rate at or near the

close of business on the banking day before the day of payment, together with assessed costs of (insert amount) United States dollars.

(7) If a contract claim is of the type covered by [section 6(1) or (2)], the judgment or award must be entered for the amount of money stated to measure the obligation to be paid in the money specified for payment or, at the option of the debtor, the number of United States dollars that will purchase the computed amount of the money of payment on the conversion date at a bank-offered spot rate.

(8) A judgment must be filed and indexed in foreign money in the same manner, and has the same effect as a lien, as other judgments. It may be discharged by payment.

**NEW SECTION. Section 9. Conversions of foreign money in distribution proceeding.** The rate of exchange prevailing at or near the close of business on the day the distribution proceeding is initiated governs all exchanges of foreign money in a distribution proceeding. A foreign-money claimant in a distribution proceeding shall assert its claim in the named foreign money and show the amount of United States dollars resulting from a conversion as of the date the proceeding was initiated.

**NEW SECTION. Section 10. Prejudgment and judgment interest.** (1) Except as provided in subsection (2), recovery of prejudgment or preaward interest and the rate of interest

1 to be applied in the action or distribution proceeding, with  
2 respect to a foreign-money claim, are matters of the  
3 substantive law governing the right to recovery under the  
4 conflict-of-laws rules of this state.

5 (2) The court or arbitrator shall increase or decrease  
6 the amount of prejudgment or preaward interest otherwise  
7 payable in a judgment or award in foreign money to the  
8 extent required by the law of this state governing a failure  
9 to make or accept an offer of settlement or offer of  
10 judgment or governing conduct by a party or its attorney  
11 causing undue delay or expense.

12 (3) A judgment or award on a foreign-money claim bears  
13 interest at the rate applicable to judgments of this state.

14 **NEW SECTION. Section 11. Enforcement of foreign**  
15 **judgments.** (1) If an action is brought to enforce a judgment  
16 of another jurisdiction expressed in a foreign money and the  
17 judgment is recognized in this state as enforceable, the  
18 enforcing judgment must be entered as provided in  
19 [section 8], whether or not the foreign judgment confers an  
20 option to pay in an equivalent amount of United States  
21 dollars.

22 (2) A foreign judgment may be filed in accordance with  
23 any rule or statute of this state providing a procedure for  
24 its recognition and enforcement.

25 (3) A satisfaction or partial payment made upon the

1 foreign judgment, on proof thereof, must be credited against  
2 the amount of foreign money specified in the judgment,  
3 notwithstanding the entry of judgment in this state.

4 (4) A judgment entered on a foreign-money claim only in  
5 United States dollars in another state must be enforced in  
6 this state in United States dollars only.

7 **NEW SECTION. Section 12. Determining United States**  
8 **dollar value of foreign-money claims for limited purposes.**

9 (1) Computations under this section are for the limited  
10 purposes of this section and do not affect computation of  
11 the United States dollar equivalent of the money of the  
12 judgment for the purpose of payment.

13 (2) For the limited purpose of facilitating the  
14 enforcement of provisional remedies in an action, the value  
15 in United States dollars of assets to be seized or  
16 restrained pursuant to a writ of attachment, garnishment,  
17 execution, or other legal process, the amount of United  
18 States dollars at issue for assessing costs, or the amount  
19 of United States dollars involved for a surety bond or other  
20 court-required undertaking must be ascertained as provided  
21 in subsections (3) and (4).

22 (3) A party seeking process, costs, bond, or other  
23 undertaking under subsection (2) shall compute in United  
24 States dollars the amount of the foreign money claimed from  
25 a bank-offered spot rate prevailing at or near the close of

business on the banking day preceding the filing of a request or application for the issuance of process, for the determination of costs, or for an application for a bond or other court-required undertaking.

(4) A party seeking the process, costs, bond, or other undertaking under subsection (2) shall file with each request or application an affidavit or certificate executed in good faith by its counsel or a bank officer, stating the market quotation used and how it was obtained, and setting forth the calculation. Affected court officials incur no liability, after a filing of the affidavit or certificate, for acting as if the judgment were in the amount of United States dollars stated in the affidavit or certificate.

**NEW SECTION. Section 13. Effect of currency revalorization.** (1) If, after an obligation is expressed or a loss is incurred in a foreign money, the country issuing or adopting that money substitutes a new money in place of that money, the obligation or the loss is treated as if expressed or incurred in the new money at the rate of conversion the issuing country establishes for the payment of like obligations or losses denominated in the former money.

(2) If substitution under subsection (1) occurs after a judgment or award is entered on a foreign-money claim, the court or arbitrator shall amend the judgment or award by a

like conversion of the former money.

**NEW SECTION. Section 14. Supplementary general principles of law.** Unless displaced by particular provisions of [sections 1 through 15], the principles of law and equity, including the law merchant, and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating causes supplement its provisions.

**NEW SECTION. Section 15. Uniformity of application and construction.** [Sections 1 through 15] must be applied and construed to effectuate the general purpose to make uniform the law with respect to the subject of [sections 1 through 15] among states enacting it.

**NEW SECTION. Section 16. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 17. Applicability.** [This act] applies to actions and distribution proceedings commenced after October 1, 1993.

-End-

HOUSE BILL NO. 234

INTRODUCED BY

*Frank Fort*

A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE UNIFORM FOREIGN-MONEY CLAIMS ACT; PROVIDING FOR THE JUDICIAL DETERMINATION OF CLAIMS EXPRESSED IN THE MONEY OF FOREIGN COUNTRIES; ADOPTING THE DATE OF PAYMENT AS THE DATE FOR DETERMINING THE TIME FOR CONVERTING THE FOREIGN MONEY INTO UNITED STATES DOLLARS; PROVIDING A METHOD FOR DETERMINING REVALORIZATION AND INTEREST; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Short title. [Sections 1 through 15] may be cited as the "Uniform Foreign-Money Claims Act".

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(2) "Bank-offered spot rate" means the spot rate of exchange at which a bank will sell foreign money at a spot rate.

(3) "Conversion date" means the banking day preceding

the date on which money, in accordance with [sections 1 through 15], is:

(a) paid to a claimant in an action or distribution proceeding;

(b) paid to the official designated by law to enforce a judgment or award on behalf of a claimant; or

(c) used to recoup, setoff, or counterclaim in different money in an action or distribution proceeding.

(4) "Distribution proceeding" means a judicial or nonjudicial proceeding for the distribution of a fund in which one or more foreign-money claims are asserted and includes an accounting, an assignment for the benefit of creditors, a foreclosure, the liquidation or rehabilitation of a corporation or other entity, and the distribution of an estate, trust, or other fund.

(5) "Foreign money" means money other than money of the United States of America.

(6) "Foreign-money claim" means a claim upon an obligation to pay or a claim for recovery of a loss, expressed in or measured by a foreign money.

(7) "Money" means a medium of exchange for the payment of obligations or a store of value authorized or adopted by a government or by intergovernmental agreement.

(8) "Money of the claim" means the money determined as proper pursuant to [section 5].

(9) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, joint venture, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(10) "Rate of exchange" means the rate at which money of one country may be converted into money of another country in a free financial market convenient to or reasonably usable by a person obligated to pay or to state a rate of conversion. If separate rates of exchange apply to different kinds of transactions, the term means the rate applicable to the particular transaction giving rise to the foreign-money claim.

(11) "Spot rate" means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for immediate or next day availability or for settlement by immediate payment in cash or equivalent, by charge to an account, or by an agreed delayed settlement not exceeding 2 days.

(12) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

**NEW SECTION. Section 3. Scope.** (1) [Sections 1 through 15] apply only to a foreign-money claim in an action or

distribution proceeding.

(2) [Sections 1 through 15] apply to foreign-money issues even if other law under the conflict-of-laws rules of this state applies to other issues in the action or distribution proceeding.

**NEW SECTION. Section 4. Variation by agreement.** (1) The effect of [sections 1 through 15] may be varied by agreement of the parties made before or after commencement of an action or distribution proceeding or the entry of judgment.

(2) Parties to a transaction may agree upon the money to be used in a transaction giving rise to a foreign-money claim and may agree to use different money for different aspects of the transaction. Stating the price in a foreign money for one aspect of a transaction does not alone require the use of that money for other aspects of the transaction.

**NEW SECTION. Section 5. Determining money of claim.** (1) The money in which the parties to a transaction have agreed that payment is to be made is the proper money of the claim for payment.

(2) If the parties to a transaction have not otherwise agreed, the proper money of the claim, as in each case may be appropriate, is the money:

(a) regularly used between the parties as a matter of usage or course of dealing;

(b) used at the time of a transaction in international trade, by trade usage or common practice, for valuing or settling transactions in the particular commodity or service involved; or

(c) in which the loss was ultimately felt or will be incurred by the party claimant.

NEW SECTION. Section 6. Determining amount of money of certain contract claims. (1) If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.

(2) If an amount contracted to be paid in a foreign money is to be measured by a different money at the rate of exchange prevailing on a date before default, that rate of exchange applies only to payments made within a reasonable time after default, not exceeding 30 days. Thereafter, conversion is made at the bank-offered spot rate on the conversion date.

(3) A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money, when received by the creditor, must equal a specified amount of the foreign money of the country of the creditor. If, because of unexcused delay in payment of a judgment or award, the amount received by the

creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator shall amend the judgment or award accordingly.

NEW SECTION. Section 7. Asserting and defending foreign-money claim. (1) A person may assert a claim in a specified foreign money. If a foreign-money claim is not asserted, the claimant makes the claim in United States dollars.

(2) An opposing party may allege and prove that a claim, in whole or in part, is in a different money than that asserted by the claimant.

(3) A person may assert a defense, setoff, recoupment, or counterclaim in any money without regard to the money of other claims.

(4) The determination of the proper money of the claim is a question of law.

NEW SECTION. Section 8. Judgments and awards on foreign-money claims -- times of money conversion -- form of judgment. (1) Except as provided in subsection (3), a judgment or award on a foreign-money claim must be stated in an amount of the money of the claim.

(2) A judgment or award on a foreign-money claim is payable in that foreign money or, at the option of the debtor, in the amount of United States dollars that will purchase that foreign money on the conversion date at a



1 bank-offered spot rate.

2 (3) Assessed costs must be entered in United States  
3 dollars.

4 (4) Each payment in United States dollars must be  
5 accepted and credited on a judgment or award on a  
6 foreign-money claim in the amount of the foreign money that  
7 could be purchased by the dollars at a bank-offered spot  
8 rate of exchange at or near the close of business on the  
9 conversion date for that payment.

10 (5) A judgment or award made in an action or  
11 distribution proceeding on both a defense, setoff,  
12 recoupment, or counterclaim and the adverse party's claim  
13 must be netted by converting the money of the smaller into  
14 the money of the larger and by subtracting the smaller from  
15 the larger and must specify the rates of exchange used.

16 (6) A judgment substantially in the following form  
17 complies with subsection (1):

18 IT IS ADJUDGED AND ORDERED, that Defendant

19 (insert name) pay to Plaintiff

20 (insert name) the sum of (insert amount in the foreign  
21 money) plus interest on that sum at the rate of (insert  
22 rate - see [section 10]) % a year or, at the option of the  
23 judgment debtor, the number of United States dollars that  
24 will purchase the (insert name of foreign money) with  
25 interest due, at a bank-offered spot rate at or near the

1 close of business on the banking day before the day of  
2 payment, together with assessed costs of (insert amount)  
3 United States dollars.

4 (7) If a contract claim is of the type covered by  
5 [section 6(1) or (2)], the judgment or award must be entered  
6 for the amount of money stated to measure the obligation to  
7 be paid in the money specified for payment or, at the option  
8 of the debtor, the number of United States dollars that will  
9 purchase the computed amount of the money of payment on the  
10 conversion date at a bank-offered spot rate.

11 (8) A judgment must be filed and indexed in foreign  
12 money in the same manner, and has the same effect as a lien,  
13 as other judgments. It may be discharged by payment.

14 NEW SECTION. Section 9. Conversions of foreign money  
15 in distribution proceeding. The rate of exchange prevailing  
16 at or near the close of business on the day the distribution  
17 proceeding is initiated governs all exchanges of foreign  
18 money in a distribution proceeding. A foreign-money claimant  
19 in a distribution proceeding shall assert its claim in the  
20 named foreign money and show the amount of United States  
21 dollars resulting from a conversion as of the date the  
22 proceeding was initiated.

23 NEW SECTION. Section 10. Prejudgment and judgment  
24 interest. (1) Except as provided in subsection (2), recovery  
25 of prejudgment or preaward interest and the rate of interest

1 to be applied in the action or distribution proceeding, with  
2 respect to a foreign-money claim, are matters of the  
3 substantive law governing the right to recovery under the  
4 conflict-of-laws rules of this state.

5 (2) The court or arbitrator shall increase or decrease  
6 the amount of prejudgment or preaward interest otherwise  
7 payable in a judgment or award in foreign money to the  
8 extent required by the law of this state governing a failure  
9 to make or accept an offer of settlement or offer of  
10 judgment or governing conduct by a party or its attorney  
11 causing undue delay or expense.

12 (3) A judgment or award on a foreign-money claim bears  
13 interest at the rate applicable to judgments of this state.

14 **NEW SECTION. Section 11. Enforcement of foreign**  
15 **judgments.** (1) If an action is brought to enforce a judgment  
16 of another jurisdiction expressed in a foreign money and the  
17 judgment is recognized in this state as enforceable, the  
18 enforcing judgment must be entered as provided in  
19 [section 8], whether or not the foreign judgment confers an  
20 option to pay in an equivalent amount of United States  
21 dollars.

22 (2) A foreign judgment may be filed in accordance with  
23 any rule or statute of this state providing a procedure for  
24 its recognition and enforcement.

25 (3) A satisfaction or partial payment made upon the

1 foreign judgment, on proof thereof, must be credited against  
2 the amount of foreign money specified in the judgment,  
3 notwithstanding the entry of judgment in this state.

4 (4) A judgment entered on a foreign-money claim only in  
5 United States dollars in another state must be enforced in  
6 this state in United States dollars only.

7 **NEW SECTION. Section 12. Determining United States**  
8 **dollar value of foreign-money claims for limited purposes.**

9 (1) Computations under this section are for the limited  
10 purposes of this section and do not affect computation of  
11 the United States dollar equivalent of the money of the  
12 judgment for the purpose of payment.

13 (2) For the limited purpose of facilitating the  
14 enforcement of provisional remedies in an action, the value  
15 in United States dollars of assets to be seized or  
16 restrained pursuant to a writ of attachment, garnishment,  
17 execution, or other legal process, the amount of United  
18 States dollars at issue for assessing costs, or the amount  
19 of United States dollars involved for a surety bond or other  
20 court-required undertaking must be ascertained as provided  
21 in subsections (3) and (4).

22 (3) A party seeking process, costs, bond, or other  
23 undertaking under subsection (2) shall compute in United  
24 States dollars the amount of the foreign money claimed from  
25 a bank-offered spot rate prevailing at or near the close of

1 business on the banking day preceding the filing of a  
2 request or application for the issuance of process, for the  
3 determination of costs, or for an application for a bond or  
4 other court-required undertaking.

5 (4) A party seeking the process, costs, bond, or other  
6 undertaking under subsection (2) shall file with each  
7 request or application an affidavit or certificate executed  
8 in good faith by its counsel or a bank officer, stating the  
9 market quotation used and how it was obtained, and setting  
10 forth the calculation. Affected court officials incur no  
11 liability, after a filing of the affidavit or certificate,  
12 for acting as if the judgment were in the amount of United  
13 States dollars stated in the affidavit or certificate.

14 NEW SECTION. Section 13. Effect of currency  
15 revalorization. (1) If, after an obligation is expressed or  
16 a loss is incurred in a foreign money, the country issuing  
17 or adopting that money substitutes a new money in place of  
18 that money, the obligation or the loss is treated as if  
19 expressed or incurred in the new money at the rate of  
20 conversion the issuing country establishes for the payment  
21 of like obligations or losses denominated in the former  
22 money.

23 (2) If substitution under subsection (1) occurs after a  
24 judgment or award is entered on a foreign-money claim, the  
25 court or arbitrator shall amend the judgment or award by a

1 like conversion of the former money.

2 NEW SECTION. Section 14. Supplementary general  
3 principles of law. Unless displaced by particular provisions  
4 of [sections 1 through 15], the principles of law and  
5 equity, including the law merchant, and the law relative to  
6 capacity to contract, principal and agent, estoppel, fraud,  
7 misrepresentation, duress, coercion, mistake, bankruptcy, or  
8 other validating or invalidating causes supplement its  
9 provisions.

10 NEW SECTION. Section 15. Uniformity of application and  
11 construction. [Sections 1 through 15] must be applied and  
12 construed to effectuate the general purpose to make uniform  
13 the law with respect to the subject of [sections 1 through  
14 15] among states enacting it.

15 NEW SECTION. Section 16. Severability. If a part of  
16 [this act] is invalid, all valid parts that are severable  
17 from the invalid part remain in effect. If a part of [this  
18 act] is invalid in one or more of its applications, the part  
19 remains in effect in all valid applications that are  
20 severable from the invalid applications.

21 NEW SECTION. Section 17. Applicability. [This act]  
22 applies to actions and distribution proceedings commenced  
23 after October 1, 1993.

-End-

## HOUSE BILL NO. 234

INTRODUCED BY TOOLE, J. RICE

A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE UNIFORM FOREIGN-MONEY CLAIMS ACT; PROVIDING FOR THE JUDICIAL DETERMINATION OF CLAIMS EXPRESSED IN THE MONEY OF FOREIGN COUNTRIES; ADOPTING THE DATE OF PAYMENT AS THE DATE FOR DETERMINING THE TIME FOR CONVERTING THE FOREIGN MONEY INTO UNITED STATES DOLLARS; PROVIDING A METHOD FOR DETERMINING REVALORIZATION AND INTEREST; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1.** Short title. [Sections 1 through 15] may be cited as the "Uniform Foreign-Money Claims Act".

NEW SECTION. **Section 2.** Definitions. In [sections 1 through 15], the following definitions apply:

(1) "Action" means a judicial proceeding or arbitration in which a payment in money may be awarded or enforced with respect to a foreign-money claim.

(2) "Bank-offered spot rate" means the spot rate of exchange at which a bank will sell foreign money at a spot rate.

(3) "Conversion date" means the banking day preceding

the date on which money, in accordance with [sections 1 through 15], is:

(a) paid to a claimant in an action or distribution proceeding;

(b) paid to the official designated by law to enforce a judgment or award on behalf of a claimant; or

(c) used to recoup, setoff, or counterclaim in different money in an action or distribution proceeding.

(4) "Distribution proceeding" means a judicial or nonjudicial proceeding for the distribution of a fund in which one or more foreign-money claims are asserted and includes an accounting, an assignment for the benefit of creditors, a foreclosure, the liquidation or rehabilitation of a corporation or other entity, and the distribution of an estate, trust, or other fund.

(5) "Foreign money" means money other than money of the United States of America.

(6) "Foreign-money claim" means a claim upon an obligation to pay or a claim for recovery of a loss, expressed in or measured by a foreign money.

(7) "Money" means a medium of exchange for the payment of obligations or a store of value authorized or adopted by a government or by intergovernmental agreement.

(8) "Money of the claim" means the money determined as proper pursuant to [section 5].

(9) "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, joint venture, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(10) "Rate of exchange" means the rate at which money of one country may be converted into money of another country in a free financial market convenient to or reasonably usable by a person obligated to pay or to state a rate of conversion. If separate rates of exchange apply to different kinds of transactions, the term means the rate applicable to the particular transaction giving rise to the foreign-money claim.

(11) "Spot rate" means the rate of exchange at which foreign money is sold by a bank or other dealer in foreign exchange for immediate or next day availability or for settlement by immediate payment in cash or equivalent, by charge to an account, or by an agreed delayed settlement not exceeding 2 days.

(12) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

**NEW SECTION. Section 3. Scope.** (1) [Sections 1 through 15] apply only to a foreign-money claim in an action or

distribution proceeding.

(2) [Sections 1 through 15] apply to foreign-money issues even if other law under the conflict-of-laws rules of this state applies to other issues in the action or distribution proceeding.

**NEW SECTION. Section 4. Variation by agreement.** (1) The effect of [sections 1 through 15] may be varied by agreement of the parties made before or after commencement of an action or distribution proceeding or the entry of judgment.

(2) Parties to a transaction may agree upon the money to be used in a transaction giving rise to a foreign-money claim and may agree to use different money for different aspects of the transaction. Stating the price in a foreign money for one aspect of a transaction does not alone require the use of that money for other aspects of the transaction.

**NEW SECTION. Section 5. Determining money of claim.** (1) The money in which the parties to a transaction have agreed that payment is to be made is the proper money of the claim for payment.

(2) If the parties to a transaction have not otherwise agreed, the proper money of the claim, as in each case may be appropriate, is the money:

(a) regularly used between the parties as a matter of usage or course of dealing;

(b) used at the time of a transaction in international trade, by trade usage or common practice, for valuing or settling transactions in the particular commodity or service involved; or

(c) in which the loss was ultimately felt or will be incurred by the party claimant.

**NEW SECTION. Section 6. Determining amount of money of certain contract claims.** (1) If an amount contracted to be paid in a foreign money is measured by a specified amount of a different money, the amount to be paid is determined on the conversion date.

(2) If an amount contracted to be paid in a foreign money is to be measured by a different money at the rate of exchange prevailing on a date before default, that rate of exchange applies only to payments made within a reasonable time after default, not exceeding 30 days. Thereafter, conversion is made at the bank-offered spot rate on the conversion date.

(3) A monetary claim is neither usurious nor unconscionable because the agreement on which it is based provides that the amount of the debtor's obligation to be paid in the debtor's money, when received by the creditor, must equal a specified amount of the foreign money of the country of the creditor. If, because of unexcused delay in payment of a judgment or award, the amount received by the

creditor does not equal the amount of the foreign money specified in the agreement, the court or arbitrator shall amend the judgment or award accordingly.

**NEW SECTION. Section 7. Asserting and defending foreign-money claim.** (1) A person may assert a claim in a specified foreign money. If a foreign-money claim is not asserted, the claimant makes the claim in United States dollars.

(2) An opposing party may allege and prove that a claim, in whole or in part, is in a different money than that asserted by the claimant.

(3) A person may assert a defense, setoff, recoupment, or counterclaim in any money without regard to the money of other claims.

(4) The determination of the proper money of the claim is a question of law.

**NEW SECTION. Section 8. Judgments and awards on foreign-money claims -- times of money conversion -- form of judgment.** (1) Except as provided in subsection (3), a judgment or award on a foreign-money claim must be stated in an amount of the money of the claim.

(2) A judgment or award on a foreign-money claim is payable in that foreign money or, at the option of the debtor, in the amount of United States dollars that will purchase that foreign money on the conversion date at a

1 bank-offered spot rate.

2 (3) Assessed costs must be entered in United States  
3 dollars.

4 (4) Each payment in United States dollars must be  
5 accepted and credited on a judgment or award on a  
6 foreign-money claim in the amount of the foreign money that  
7 could be purchased by the dollars at a bank-offered spot  
8 rate of exchange at or near the close of business on the  
9 conversion date for that payment.

10 (5) A judgment or award made in an action or  
11 distribution proceeding on both a defense, setoff,  
12 recoupment, or counterclaim and the adverse party's claim  
13 must be netted by converting the money of the smaller into  
14 the money of the larger and by subtracting the smaller from  
15 the larger and must specify the rates of exchange used.

16 (6) A judgment substantially in the following form  
17 complies with subsection (1):

18 IT IS ADJUDGED AND ORDERED, that Defendant

19 (insert name) pay to Plaintiff

20 (insert name) the sum of (insert amount in the foreign  
21 money) plus interest on that sum at the rate of (insert  
22 rate - see [section 10]) % a year or, at the option of the  
23 judgment debtor, the number of United States dollars that  
24 will purchase the (insert name of foreign money) with  
25 interest due, at a bank-offered spot rate at or near the

1 close of business on the banking day before the day of  
2 payment, together with assessed costs of (insert amount)  
3 United States dollars.

4 (7) If a contract claim is of the type covered by  
5 [section 6(1) or (2)], the judgment or award must be entered  
6 for the amount of money stated to measure the obligation to  
7 be paid in the money specified for payment or, at the option  
8 of the debtor, the number of United States dollars that will  
9 purchase the computed amount of the money of payment on the  
10 conversion date at a bank-offered spot rate.

11 (8) A judgment must be filed and indexed in foreign  
12 money in the same manner, and has the same effect as a lien,  
13 as other judgments. It may be discharged by payment.

14 **NEW SECTION. Section 9. Conversions of foreign money**  
15 **in distribution proceeding.** The rate of exchange prevailing  
16 at or near the close of business on the day the distribution  
17 proceeding is initiated governs all exchanges of foreign  
18 money in a distribution proceeding. A foreign-money claimant  
19 in a distribution proceeding shall assert its claim in the  
20 named foreign money and show the amount of United States  
21 dollars resulting from a conversion as of the date the  
22 proceeding was initiated.

23 **NEW SECTION. Section 10. Prejudgment and judgment**  
24 **interest.** (1) Except as provided in subsection (2), recovery  
25 of prejudgment or preaward interest and the rate of interest

1 to be applied in the action or distribution proceeding, with  
2 respect to a foreign-money claim, are matters of the  
3 substantive law governing the right to recovery under the  
4 conflict-of-laws rules of this state.

5 (2) The court or arbitrator shall increase or decrease  
6 the amount of prejudgment or preaward interest otherwise  
7 payable in a judgment or award in foreign money to the  
8 extent required by the law of this state governing a failure  
9 to make or accept an offer of settlement or offer of  
10 judgment or governing conduct by a party or its attorney  
11 causing undue delay or expense.

12 (3) A judgment or award on a foreign-money claim bears  
13 interest at the rate applicable to judgments of this state.

14 NEW SECTION. Section 11. Enforcement of foreign  
15 judgments. (1) If an action is brought to enforce a judgment  
16 of another jurisdiction expressed in a foreign money and the  
17 judgment is recognized in this state as enforceable, the  
18 enforcing judgment must be entered as provided in  
19 [section 8], whether or not the foreign judgment confers an  
20 option to pay in an equivalent amount of United States  
21 dollars.

22 (2) A foreign judgment may be filed in accordance with  
23 any rule or statute of this state providing a procedure for  
24 its recognition and enforcement.

25 (3) A satisfaction or partial payment made upon the

1 foreign judgment, on proof thereof, must be credited against  
2 the amount of foreign money specified in the judgment,  
3 notwithstanding the entry of judgment in this state.

4 (4) A judgment entered on a foreign-money claim only in  
5 United States dollars in another state must be enforced in  
6 this state in United States dollars only.

7 NEW SECTION. Section 12. Determining United States  
8 dollar value of foreign-money claims for limited purposes.

9 (1) Computations under this section are for the limited  
10 purposes of this section and do not affect computation of  
11 the United States dollar equivalent of the money of the  
12 judgment for the purpose of payment.

13 (2) For the limited purpose of facilitating the  
14 enforcement of provisional remedies in an action, the value  
15 in United States dollars of assets to be seized or  
16 restrained pursuant to a writ of attachment, garnishment,  
17 execution, or other legal process, the amount of United  
18 States dollars at issue for assessing costs, or the amount  
19 of United States dollars involved for a surety bond or other  
20 court-required undertaking must be ascertained as provided  
21 in subsections (3) and (4).

22 (3) A party seeking process, costs, bond, or other  
23 undertaking under subsection (2) shall compute in United  
24 States dollars the amount of the foreign money claimed from  
25 a bank-offered spot rate prevailing at or near the close of



business on the banking day preceding the filing of a request or application for the issuance of process, for the determination of costs, or for an application for a bond or other court-required undertaking.

(4) A party seeking the process, costs, bond, or other undertaking under subsection (2) shall file with each request or application an affidavit or certificate executed in good faith by its counsel or a bank officer, stating the market quotation used and how it was obtained, and setting forth the calculation. Affected court officials incur no liability, after a filing of the affidavit or certificate, for acting as if the judgment were in the amount of United States dollars stated in the affidavit or certificate.

**NEW SECTION. Section 13. Effect of currency revalorization.** (1) If, after an obligation is expressed or a loss is incurred in a foreign money, the country issuing or adopting that money substitutes a new money in place of that money, the obligation or the loss is treated as if expressed or incurred in the new money at the rate of conversion the issuing country establishes for the payment of like obligations or losses denominated in the former money.

(2) If substitution under subsection (1) occurs after a judgment or award is entered on a foreign-money claim, the court or arbitrator shall amend the judgment or award by a

like conversion of the former money.

**NEW SECTION. Section 14. Supplementary general principles of law.** Unless displaced by particular provisions of [sections 1 through 15], the principles of law and equity, including the law merchant, and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating causes supplement its provisions.

**NEW SECTION. Section 15. Uniformity of application and construction.** [Sections 1 through 15] must be applied and construed to effectuate the general purpose to make uniform the law with respect to the subject of [sections 1 through 15] among states enacting it.

**NEW SECTION. Section 16. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION. Section 17. Applicability.** [This act] applies to actions and distribution proceedings commenced after October 1, 1993.

-End-