

Senate Bill No. 406

CHAPTER 243

An act to amend, add, and repeal Section 1714 of, and to add and repeal Title 11.5 (commencing with Section 1730) to Part 3 of, the Code of Civil Procedure, relating to tribal court civil judgments.

[Approved by Governor August 22, 2014. Filed with
Secretary of State August 22, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

SB 406, Evans. Tribal Court Civil Money Judgment Act.

The existing Uniform Foreign-Country Money Judgments Recognition Act provides that foreign judgments that grant or deny recovery of a sum of money and that are final and conclusive are enforceable in California, with specified exceptions. The act includes within the definition of "foreign-country judgment" a judgment by any Indian tribe recognized by the government of the United States.

This bill would, until January 1, 2018, exempt Indian tribal judgments from the Uniform Foreign-Country Money Judgments Recognition Act, and would instead enact the Tribal Court Civil Money Judgment Act. The new act would likewise provide for the enforceability of tribal court money judgments in California, except as specified. The act would prescribe the procedure for applying for recognition and entry of a judgment based on a tribal court money judgment, the procedure and grounds for objecting to the entry of judgment, and the bases upon which the court may refuse to enter the judgment or grant a stay of enforcement. The bill would require the Judicial Council to prescribe a form for the notice of filing the application for recognition of the tribal court money judgment, as specified. The bill would require that this application be executed under penalty of perjury, which would expand the scope of the crime of perjury and thus impose a state-mandated local program. The bill would require the California Law Revision Commission to conduct a study of the standards for recognition of a tribal court or a foreign court judgment under the Tribal Court Civil Money Judgment Act and the Uniform Foreign-Country Money Judgments Recognition Act, and submit a report of its findings and recommendations to the Legislature and the Governor no later than January 1, 2017.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The California Law Revision Commission shall, within existing resources, conduct a study of the standards for recognition of a tribal court or a foreign court judgment, under the Tribal Court Civil Money Judgment Act (Title 11.5 (commencing with Section 1730) of Part 3 of the Code of Civil Procedure) and the Uniform Foreign-Country Money Judgments Recognition Act (Chapter 2 (commencing with Section 1713) of Title 11 of Part 3 of the Code of Civil Procedure). On or before January 1, 2017, the California Law Revision Commission shall report its findings, along with any recommendations for improvement of those standards, to the Legislature and the Governor.

SEC. 2. Section 1714 of the Code of Civil Procedure is amended to read: 1714. As used in this chapter:

(a) “Foreign country” means a government other than any of the following:

(1) The United States.

(2) A state, district, commonwealth, territory, or insular possession of the United States.

(3) Any other government with regard to which the decision in this state as to whether to recognize a judgment of that government’s courts is initially subject to determination under the Full Faith and Credit Clause of the United States Constitution.

(b) “Foreign-country judgment” means a judgment of a court of a foreign country.

(c) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 3. Section 1714 is added to the Code of Civil Procedure, to read:

1714. (a) “Foreign country” means a government other than any of the following:

(1) The United States.

(2) A state, district, commonwealth, territory, or insular possession of the United States.

(3) Any other government with regard to which the decision in this state as to whether to recognize a judgment of that government’s courts is initially subject to determination under the Full Faith and Credit Clause of the United States Constitution.

(b) “Foreign-country judgment” means a judgment of a court of a foreign country. “Foreign-country judgment” includes a judgment by any Indian tribe recognized by the government of the United States.

(c) This section is operative on and after January 1, 2018.

SEC. 4. Title 11.5 (commencing with Section 1730) is added to Part 3 of the Code of Civil Procedure, to read:

TITLE 11.5. TRIBAL COURT CIVIL MONEY JUDGMENT ACT

1730. This title shall be known and may be cited as the Tribal Court Civil Money Judgment Act.

1731. (a) This title governs the procedures by which the superior courts of the State of California recognize and enter tribal court money judgments of any federally recognized Indian tribe. Determinations regarding recognition and entry of a tribal court money judgment pursuant to state law shall have no effect upon the independent authority of that judgment. To the extent not inconsistent with this title, the Code of Civil Procedure shall apply.

(b) This title does not apply to any of the following tribal court money judgments:

(1) For taxes, fines, or other penalties.

(2) For which federal law requires that states grant full faith and credit recognition, including child support orders under the Full Faith and Credit for Child Support Orders Act (28 U.S.C. Sec. 1738B).

(3) For which state law provides for recognition, including child support orders recognized under the Uniform Child Custody Jurisdiction and Enforcement Act (Part 3 (commencing with Section 3400) of Division 8 of the Family Code), other forms of family support orders under the Uniform Interstate Family Support Act (Chapter 6 (commencing with Section 4900) of Part 5 of Division 9 of the Family Code).

(4) For decedents' estates, guardianships, conservatorships, internal affairs of trusts, powers of attorney, or other tribal court money judgments that arise in proceedings that are or would be governed by the Probate Code.

(c) Nothing in this title shall be deemed or construed to expand or limit the jurisdiction of either the state or any Indian tribe.

1732. For purposes of this title:

(a) "Applicant" means the person or persons who can bring an action to enforce a tribal court money judgment.

(b) "Civil action or proceeding" means any action or proceeding that is not criminal, except for those actions or proceedings expressly excluded by subdivision (b) of Section 1731.

(c) "Due process" includes, but is not limited to, the right to be represented by legal counsel, to receive reasonable notice and an opportunity for a hearing, to call and cross-examine witnesses, and to present evidence and argument to an impartial decisionmaker.

(d) "Good cause" means a substantial reason, taking into account the prejudice or irreparable harm a party will suffer if a hearing is not held on an objection or not held within the time periods established by this title.

(e) "Respondent" means the person or persons against whom an action to enforce a tribal court money judgment can be brought.

(f) "Tribal court" means any court or other tribunal of any federally recognized Indian nation, tribe, pueblo, band, or Alaska Native village, duly established under tribal or federal law, including Courts of Indian Offenses organized pursuant to Part 11 of Title 25 of the Code of Federal Regulations.

(g) “Tribal court money judgment” means any written judgment, decree, or order of a tribal court for a specified amount of money that was issued in a civil action or proceeding that is final, conclusive, and enforceable by the tribal court in which it was issued and is duly authenticated in accordance with the laws and procedures of the tribe or tribal court.

1733. (a) An application for entry of a judgment under this title shall be filed in a superior court.

(b) Subject to the power of the court to transfer proceedings under this title pursuant to Title 4 (commencing with Section 392) of Part 2, the proper county for the filing of an application is either of the following:

(1) The county in which any respondent resides or owns property.

(2) If no respondent is a resident, any county in this state.

(c) A case in which the tribal court money judgment amounts to twenty-five thousand dollars (\$25,000) or less is a limited civil case.

1734. (a) An applicant may apply for recognition and entry of a judgment based on a tribal court money judgment by filing an application in superior court pursuant to Section 1733.

(b) The application shall be executed under penalty of perjury and include all of the following information:

(1) The name and address of the tribal court that issued the judgment to be enforced and the date of the tribal court money judgment or any renewal thereof.

(2) The name and address of the party seeking recognition.

(3) (A) Any of the following statements, as applicable:

(i) If the respondent is an individual, the name and last known residence address of the respondent.

(ii) If the respondent is a corporation, the corporation’s name, place of incorporation, and whether the corporation, if foreign, has qualified to do business in this state under the provisions of Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of the Corporations Code.

(iii) If the respondent is a partnership, the name of the partnership, whether it is a foreign partnership, and if it is a foreign partnership, whether it has filed a statement pursuant to Section 15800 of the Corporations Code designating an agent for service of process.

(iv) If the respondent is a limited liability company, the company’s name, whether it is a foreign company, and if so, whether it has filed a statement pursuant to Section 17060 of the Corporations Code.

(B) Except for facts that are matters of public record in this state, the statements required by this paragraph may be made on the basis of the applicant’s information and belief.

(4) A statement that an action in this state to enforce the tribal court money judgment is not barred by the applicable statute of limitations.

(5) A statement, based on the applicant’s information and belief, that the tribal court money judgment is final and that no stay of enforcement of the tribal court money judgment is currently in effect.

(6) A statement that includes all of the following:

(A) The amount of the award granted in the tribal court money judgment that remains unpaid.

(B) If accrued interest on the tribal court money judgment is to be included in the California judgment, the amount of interest accrued on the tribal court money judgment, computed at the rate of interest applicable to the judgment under the law of the tribal jurisdiction in which the tribal court money judgment was issued.

(C) The rate of interest applicable to the money judgment under the law of the jurisdiction in which the tribal court money judgment was issued.

(D) A citation to the supporting authority.

(7) A statement that no action based on the tribal court money judgment is currently pending in any state court and that no judgment based on the tribal court money judgment has previously been entered in any proceeding in this state.

(c) All of the following items shall be attached to the application:

(1) An authenticated copy of the tribal court money judgment, certified by the judge or clerk of the tribal court.

(2) A copy of the tribal court rules of procedure pursuant to which the tribal court money judgment was entered.

(3) A declaration under penalty of perjury by the tribal court clerk, applicant, or applicant's attorney stating, based on personal knowledge, that the case that resulted in the entry of the judgment was conducted in compliance with the tribal court's rules of procedure.

1735. (a) Promptly upon the filing of the application, the applicant shall serve upon the respondent a notice of filing of the application to recognize and enter the tribal court money judgment, together with a copy of the application and any documents filed with the application. The notice of filing shall be in a form that shall be prescribed by the Judicial Council, and shall inform the respondent that the respondent has 30 days from service of the notice of filing to file objections to the enforcement of the tribal court money judgment. The notice shall include the name and address of the applicant and the applicant's attorney, if any, and the text of Sections 1736 and 1737.

(b) Except as provided in subdivision (c), service shall be made in the manner provided for service of summons by Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2.

(c) If a respondent is the State of California or any of its officers, employees, departments, agencies, boards, or commissions, service of the notice of filing on that respondent may be by mail to the office of the Attorney General.

(d) The fee for service of the notice of filing under this section is an item of costs recoverable in the same manner as statutory fees for service of a writ as provided in Chapter 5 (commencing with Section 685.010) of Division 1 of Title 9 of Part 2, but the recoverable amount for that fee shall not exceed the amount allowed to a public officer or employee of this state for that service.

(e) The applicant shall file a proof of service of the notice promptly following service.

1736. (a) If no objections are timely filed in accordance with Section 1737, the clerk shall certify that no objections were timely filed, and a judgment shall be entered.

(b) The judgment entered by the superior court shall be based on and contain the provisions and terms of the tribal court money judgment. The judgment shall be entered in the same manner, have the same effect, and be enforceable in the same manner as any civil judgment, order, or decree of a court of this state.

1737. (a) Any objection to the recognition and entry of the tribal court money judgment shall be served and filed within 30 days of service of the notice of filing. If any objection is filed within this time period, the superior court shall set a time period for replies and set the matter for a hearing. The hearing shall be held by the superior court within 45 days from the date the objection is filed unless good cause exists for a later hearing. The only grounds for objecting to the recognition or enforcement of a tribal court money judgment are the grounds set forth in subdivisions (b) and (c).

(b) A tribal court money judgment shall not be recognized and entered if the respondent demonstrates to the superior court that at least one of the following occurred:

- (1) The tribal court did not have personal jurisdiction over the respondent.
- (2) The tribal court did not have jurisdiction over the subject matter.
- (3) The judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law.

(c) The superior court may, in its discretion, decline to recognize and enter a tribal court money judgment on any one of the following grounds:

(1) The defendant in the proceeding in the tribal court did not receive notice of the proceeding in sufficient time to enable the defendant to defend.

(2) The judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present its case.

(3) The judgment or the cause of action or claim for relief on which the judgment is based is repugnant to the public policy of the state or of the United States.

(4) The judgment conflicts with another final and conclusive judgment.

(5) The proceeding in the tribal court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that tribal court.

(6) In the case of jurisdiction based on personal service only, the tribal court was a seriously inconvenient forum for the trial of the action.

(7) The judgment was rendered under circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment.

(8) The specific proceeding in the tribal court leading to the judgment was not compatible with the requirements of due process of law.

(9) The judgment includes recovery for a claim of defamation, unless the court determines that the defamation law applied by the tribal court

provided at least as much protection for freedom of speech and the press as provided by both the United States and California Constitutions.

(d) If objections have been timely filed, the applicant has the burden of establishing that the tribal court money judgment is entitled to recognition. If the applicant has met its burden, a party resisting recognition of the tribal court money judgment has the burden of establishing that a ground for nonrecognition exists pursuant to subdivision (b) or (c).

1738. The superior court shall grant a stay of enforcement if the respondent establishes one of the following to the superior court:

(a) An appeal from the tribal court money judgment is pending or may be taken in the tribal court, in which case the superior court shall stay state execution of the tribal court money judgment until the proceeding on appeal has been concluded or the time for appeal has expired.

(b) A stay of enforcement of the tribal court money judgment has been granted by the tribal court, in which case the superior court shall stay enforcement of the tribal court money judgment until the stay of execution expires or is vacated.

(c) Any other circumstance exists where the interests of justice require a stay of enforcement.

1739. An action to recognize a tribal court money judgment or any renewal thereof shall be commenced within the earlier of the following periods:

(a) The time during which the tribal court money judgment is effective within the territorial jurisdiction of the tribal court.

(b) Ten years from the date that the tribal court money judgment became effective in the tribal jurisdiction.

1740. (a) The superior court may, after notice to all parties, attempt to resolve any issues raised regarding a tribal court money judgment by contacting the tribal court judge who issued the judgment.

(b) The superior court shall allow the parties to participate in, and shall prepare a record of, any communication made with the tribal court judge pursuant to this section.

1741. (a) The Uniform Foreign-Country Money Judgments Recognition Act (Chapter 2 (commencing with Section 1713) of Title 11 of Part 3) applies to all actions commenced in superior court before the effective date of this title in which the issue of recognition of a tribal court money judgment is raised.

(b) This title applies to all actions to enforce tribal court money judgments as defined herein commenced in superior court on or after the effective date of this title. A judgment entered under this title shall not limit the right of a party to seek enforcement of any part of a judgment, order, or decree entered by a tribal court that is not encompassed by the judgment entered under this title.

1742. This title shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.