



Thursday, February 28, 2008

## Bill Text - A09652

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

[See Bill Summary](#)

S T A T E   O F   N E W   Y O R K

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9652--A

I N   A S S E M B L Y

(PREFILED)

January 9, 2008

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Introduced by M. of A. LANCMAN, JAFFEE, K. ZEBROWSKI, FIELDS -- Multi-Sponsored by -- M. of A. KOON, PAULIN -- read once and referred to the Committee on Judiciary -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil practice law and rules, in relation to enforceability of certain foreign judgments

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1    Section 1. This act shall be known and may be cited as the "libel  
2    terrorism protection act".  
3    S 2. Section 5304 of the civil practice law and rules, as added by  
4    chapter 981 of the laws of 1970, is amended to read as follows:  
5    S 5304. Grounds for non-recognition. (a) No recognition. A foreign  
6    country judgment is not conclusive if:  
7    1. the judgment was rendered under a system which does not provide  
8    impartial tribunals or procedures compatible with the requirements of  
9    due process of law;  
10    2. the foreign court did not have personal jurisdiction over the  
11    defendant.  
12    (b) Other grounds for non-recognition. A foreign country judgment need  
13    not be recognized if:  
14    1. the foreign court did not have jurisdiction over the subject  
15    matter;  
16    2. the defendant in the proceedings in the foreign court did not  
17    receive notice of the proceedings in sufficient time to enable him to  
18    defend;  
19    3. the judgment was obtained by fraud;  
20    4. the cause of action on which the judgment is based is repugnant to  
21    the public policy of this state;

22 5. the judgment conflicts with another final and conclusive judgment;  
23 6. the proceeding in the foreign court was contrary to an agreement  
24 between the parties under which the dispute in question was to be  
25 settled otherwise than by proceedings in that court; {or}

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
{ } is old law to be omitted.

LBD14685-06-8

A. 9652--A

2

1 7. in the case of jurisdiction based only on personal service, the  
2 foreign court was a seriously inconvenient forum for the trial of the  
3 action{.}; OR

4 8. THE CAUSE OF ACTION RESULTED IN A DEFAMATION JUDGMENT OBTAINED IN A  
5 JURISDICTION OUTSIDE THE UNITED STATES, UNLESS A COURT SITTING IN THIS  
6 STATE FIRST DETERMINES THAT THE DEFAMATION LAW APPLIED IN THE FOREIGN  
7 JURISDICTION PROVIDES AT LEAST AS MUCH PROTECTION FOR FREEDOM OF SPEECH  
8 AND PRESS AS PROVIDED FOR BY BOTH THE UNITED STATES AND NEW YORK CONSTI-  
9 TUTIONS.

10 S 3. Section 302 of the civil practice law and rules is amended by  
11 adding a new subdivision (d) to read as follows:

12 (D) FOREIGN DEFAMATION JUDGMENT. THE COURTS OF THIS STATE SHALL HAVE  
13 PERSONAL JURISDICTION OVER ANY PERSON WHO OBTAINS A JUDGMENT IN A DEFA-  
14 MATION PROCEEDING OUTSIDE THE UNITED STATES AGAINST ANY PERSON WHO IS A  
15 RESIDENT OF NEW YORK OR, IF NOT A NATURAL PERSON, HAS ITS PRINCIPAL  
16 PLACE OF BUSINESS IN NEW YORK, FOR THE PURPOSES OF RENDERING DECLARATORY  
17 RELIEF WITH RESPECT TO THAT RESIDENT`S LIABILITY FOR THE JUDGMENT,  
18 AND/OR FOR THE PURPOSE OF DETERMINING WHETHER SAID JUDGMENT SHOULD BE  
19 DEEMED NON-RECOGNIZABLE PURSUANT TO SECTION FIFTY-THREE HUNDRED FOUR OF  
20 THIS CHAPTER, TO THE FULLEST EXTENT PERMITTED BY THE UNITED STATES  
21 CONSTITUTION, PROVIDED:

22 1. THE PUBLICATION AT ISSUE WAS PUBLISHED IN NEW YORK, AND

23 2. THAT RESIDENT (I) HAS ASSETS IN NEW YORK WHICH MIGHT BE USED TO  
24 SATISFY THE FOREIGN DEFAMATION JUDGMENT, OR (II) MAY HAVE TO TAKE  
25 ACTIONS IN NEW YORK TO COMPLY WITH THE FOREIGN DEFAMATION JUDGMENT. THE  
26 PROVISIONS OF THIS SUBDIVISION SHALL APPLY TO PERSONS WHO OBTAINED JUDG-  
27 MENTS IN DEFAMATION PROCEEDINGS OUTSIDE THE UNITED STATES PRIOR TO  
28 AND/OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION.

29 S 4. This act shall take effect immediately.

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