

**SUBJECT:** De novo review of a foreign country judgment

**COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment

**VOTE:** 10 ayes — Jackson, Lewis, Bohac, Castro, S. Davis, Madden, Raymond, Scott, Thompson, Woolley

0 nays

1 absent — Hartnett

**WITNESSES:** For — Brian Lauten, Dr. and Mrs. Bill Boothe; (*Registered, but did not testify*: Clay Nance, Hance Scarborough, LLP)

Against — None

**DIGEST:** HB 3174 would amend the Securities Act (Title 19, Vernon’s Texas Civil Statutes) to entitle a party to de novo review by a Texas court when recognition or enforcement of a foreign country judgment was sought against the party. The bill would apply to a foreign country judgment involving a contract or agreement for a sale, offer for sale, or investment that imposed indemnification or liquidated damages on a Texas resident. The Texas court would determine whether a party, its successor, assigns, agents, or representatives seeking recognition or enforcement of a foreign country judgment had violated the Securities Act or the Deceptive Trade Practices-Consumer Protection Act (DTPA). A finding by a court of a violation of the Securities Act or the DTPA would be sufficient ground for non-recognition of a foreign country judgment.

A party seeking de novo review would be required to file with the court a verified pleading asserting a violation of the Securities Act or the DTPA by the 30th day after service of the notice of filing of a foreign country judgment with the court for recognition or enforcement. This pleading would operate as a stay of the proceeding and would continue until de novo review was completed and a final judgment rendered.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

**SUPPORTERS  
SAY:**

HB 3174 would protect victims of investment scams from foreign judgments where due process protections are lacking. Texans have been victims of investment scams such as Ponzi schemes operated in foreign countries. When victims have sued to attempt to recover their money, they have been counter sued in foreign jurisdictions on the theory that the investment contract contained an indemnification clause or liquidated damages. This bill would protect victims from judgments obtained in corrupt courts where the Securities Act or DTPA had been violated.

**OPPONENTS  
SAY:**

HB 3174 could create an extra hurdle for a victim of an investment scam. If an investment contract specified that suits on the contract must be brought in a foreign jurisdiction, the investor might need to obtain a foreign judgment and then seek enforcement in a Texas court. This bill would require de novo review of the judgment to enforce it.