

BILL ANALYSIS

Senate Research Center

H.B. 3174
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Jurisprudence
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

It has been reported that Texas residents have suffered substantial investment losses arising from offshore investment scams that purportedly invest in offshore assets or investments. Observers charge that perpetrators of these scams hide behind Caribbean-based jurisdictions to attempt to legitimize their scams and that both sophisticated and unsophisticated investors in Texas seeking guaranteed returns on their hard-earned investment dollars have fallen prey to bait-and-switch contracts resulting in foreign country judgments against innocent Texas residents. Interested parties note that legislation is required to protect Texas residents from judgments issued by foreign tribunals that lack the guarantees and protections of adequate legal due process that is traditionally afforded to litigants in Texas. H.B. 3174 seeks to address this issue by addressing matters relating to the stay of recognition or enforcement of a foreign country judgment to allow for de novo review of a contract or agreement for a sale, offer for sale, or sell under certain statutes.

H.B. 3174 amends current law relating to the stay of recognition or enforcement of a foreign country judgment to allow for de novo review of a contract or agreement for a sale, offer for sale, or sell under The Securities Act.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends The Securities Act (Article 581-1 et seq., V.T.C.S.) by adding Section 33-2, as follows:

Sec. 33-2. STAY OF RECOGNITION OR ENFORCEMENT OF FOREIGN COUNTRY JUDGMENT. (a) Entitles a party against whom recognition or enforcement of a foreign country judgment is sought, prior to a court's recognition or enforcement of a foreign country judgment under Chapter 36 (Enforcement of Judgments of Other Counties), Civil Practice and Remedies Code, or otherwise, to de novo review by a court in this state to determine whether a party, its successors, assigns, agents, or representatives seeking recognition or enforcement of a foreign country judgment has violated this Act or Chapter 17 (Deceptive Trade Practices), Business & Commerce Code.

(b) Requires a party seeking de novo review under this section to file with the court a verified pleading asserting a violation of this Act or Chapter 17, Business & Commerce Code, not later than the 30th day after the date of service of the notice of filing of a foreign country judgment with the court for recognition or enforcement.

(c) Provides that a pleading filed in accordance with Subsection (b) operates as a stay of the commencement or continuation of a proceeding to recognize or enforce a foreign country judgment. Requires that the stay continue until the court completes its de novo review under this section and renders a final judgment.

(d) Provides that a finding by a court of a violation of this Act or Chapter 17, Business & Commerce Code, is a sufficient ground for nonrecognition of a foreign country judgment.

(e) Provides that this section applies to a foreign country judgment involving a contract or agreement for a sale, offer for sale, or sell as defined by this Act, or investment, that imposes an obligation of indemnification or liquidated damages upon a Texas resident.

SECTION 2. Effective date: upon passage or September 1, 2011.