

HOUSE BILL No. 4964

September 14, 2017, Introduced by Rep. Glenn and referred to the Committee on Judiciary.

A bill to provide remedies related to defamation judgments entered in foreign countries.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "free
2 speech defense act".

3 Sec. 2. As used in this act:

4 (a) "Foreign country" means that term as defined in section 2
5 of the uniform foreign-country money judgments act, 2008 PA 20, MCL
6 691.1132.

7 (b) "Foreign defamation action" means a legal proceeding
8 instituted in a court of a foreign country that asserted a cause of
9 action arising from allegations of defamation, libel, or slander.

10 (c) Foreign defamation judgment" means a judgment rendered in
11 a court in a foreign country that was entered in a foreign

1 defamation action.

2 Sec. 3. (1) A foreign defamation judgment is not conclusive if
3 any of the following apply:

4 (a) The judgment was rendered under a system that does not
5 provide impartial tribunals or procedures compatible with the
6 requirements of due process of law.

7 (b) The foreign court did not have personal jurisdiction over
8 the defendant.

9 (c) The foreign court did not have jurisdiction over the
10 subject matter.

11 (2) A court of this state shall not recognize, grant comity
12 to, treat as res judicata, or use as the basis for collateral
13 estoppel a foreign defamation judgment if any of the following
14 apply:

15 (a) The defendant in the proceedings in the foreign court did
16 not receive notice of the proceedings in sufficient time to enable
17 the defendant to provide a defense.

18 (b) The judgment was obtained by fraud.

19 (c) The cause of action or claim for relief on which the
20 judgment is based is repugnant to the public policy of this state.

21 (d) The judgment conflicts with another final and conclusive
22 order.

23 (e) The proceeding in the foreign court was contrary to an
24 agreement between the parties under which the dispute in question
25 was to be settled otherwise than by proceedings in that court.

26 (f) If jurisdiction was based only on personal service, the
27 foreign court was an inconvenient forum for the trial of the

1 action.

2 (g) The foreign country where judgment was rendered would not
3 give recognition to a similar judgment rendered in this state.

4 (h) The court sitting in this state before which the matter is
5 brought determines that the defamation law applied in the foreign
6 defamation action by the foreign court failed to provide at least
7 as much protection for freedom of speech and press as would be
8 provided by the constitutions of this state and the United States.

9 Sec. 4. (1) A person against whom a foreign defamation
10 judgment is entered, whether the foreign defamation judgment is
11 final or appealable, may bring an action in the circuit court for a
12 declaratory judgment with respect to the liability of the person
13 for the judgment and determining whether the judgment is
14 unenforceable for any reason enumerated in section 3(2).

15 (2) For purposes of rendering declaratory relief under this
16 act, the courts of this state have personal jurisdiction over a
17 person who obtains a foreign defamation judgment against any of the
18 following:

19 (a) A resident of this state.

20 (b) A person or entity amenable to the jurisdiction of this
21 state.

22 (c) A person who has assets in this state.

23 (d) A person who may have to take action in this state to
24 comply with the judgment.

25 Sec. 5. (1) A person against whom a foreign defamation action
26 has been instituted may bring an action for an injunction if the
27 foreign defamation action would do any of the following:

1 (a) Frustrate a policy of this state, the guarantee of due
2 process, or the protection of freedom of speech.

3 (b) Be vexatious or oppressive.

4 (c) Prejudice other equitable considerations.

5 (2) For purposes of rendering injunctive relief under this
6 act, the courts of this state have personal jurisdiction over a
7 person who institutes a foreign defamation action against any of
8 the following:

9 (a) A resident of this state.

10 (b) A person or entity amenable to the jurisdiction of this
11 state.

12 (c) A person who has assets in this state.

13 (d) A person who may have to take action in this state to
14 comply with the judgment.

15 Sec. 6. The existence of a previously filed foreign defamation
16 action is not an affirmative defense to an action for declaratory
17 or injunctive relief under this act.

18 Sec. 7. An action for declaratory or injunctive relief under
19 this act may be brought in any of the following:

20 (a) The county in which the plaintiff resides.

21 (b) A county in which the plaintiff has assets.

22 (c) Any other county in which venue is proper under other
23 applicable law of this state.

24 Enacting section 1. This act takes effect 90 days after the
25 date it is enacted into law.

26 Enacting section 2. This act does not take effect unless
27 Senate Bill No. ____ or House Bill No. 4967 (request no. 03883'17 a)

1 of the 99th Legislature is enacted into law.