

40-2706. Definitions; enforcement of order or decision; reciprocal states; foreign decree. (a) As used in this section:

(1) "Reciprocal state" means any state or territory of the United States the laws of which contain procedures substantially similar to those specified in this section for the enforcement of decrees or orders in equity issued by courts located in other states or territories of the United States, against any insurer incorporated or authorized to do business in said state or territory.

(2) "Foreign decree" means any decree or order in equity of a court located in a "reciprocal state," including a court of the United States located therein, against any insurer incorporated or authorized to do business in this state.

(3) "Qualified party" means a state regulatory agency acting in its capacity to enforce the insurance laws of its state.

(b) The attorney general upon request of the commissioner of insurance may proceed in the courts of this state or any reciprocal state to enforce an order or decision in any court proceeding or in any administrative proceeding before the commissioner of insurance. The commissioner of insurance of this state shall determine which states and territories qualify as reciprocal states and shall maintain at all times an up-to-date list of such states.

(c) A copy of any foreign decree authenticated in accordance with the statutes of this state may be filed in the office of the clerk of any court of competent jurisdiction in this state. The clerk, upon verifying with the commissioner of insurance that the decree or order qualifies as a "foreign decree," shall treat the foreign decree in the same manner as a decree of a court of competent jurisdiction in this state. A foreign decree so filed has the same effect and shall be deemed as a decree of any court of competent jurisdiction in this state, and is subject to the same procedures, defenses and proceedings for reopening, vacating or staying as a decree of any court of competent jurisdiction in this state, and may be enforced or satisfied in like manner.

(d) (1) At the time of the filing of the foreign decree, the attorney general shall make and file with the clerk of the court an affidavit setting forth the name and last known post-office address of the defendant.

(2) Promptly upon the filing of the foreign decree and the affidavit, the clerk of such court shall mail notice of the filing of the foreign decree to the defendant at the address stated therein and to the commissioner of insurance of this state, and shall make a note of the mailing in the docket. In addition, the attorney general may mail a notice of the filing of the foreign decree to the defendant and to the commissioner of insurance of this state and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the attorney general has been filed.

(3) No execution or other process for enforcement of a foreign decree filed hereunder shall issue until thirty (30) days after the date the decree is filed.

(e) (1) If the defendant shows the court that an appeal from the foreign decree is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign decree until the appeal is concluded, the time for appeal expires or the stay of execution expires or is vacated, upon proof that the defendant has furnished the security for the satisfaction of the decree required by the state in which it was rendered.

(2) If the defendant shows the court any ground upon which enforcement of a decree of any court of competent jurisdiction in this state would be stayed, the court shall stay enforcement of the foreign decree for an appropriate period, upon requiring the same security for satisfaction of the decree which is required in this state.

(f) Any person filing a foreign decree shall pay the required fee to the clerk of the court where said decree is filed. Fees for docketing, transcription or other enforcement proceedings shall be as provided for decrees of such court.

History: L. 1969, ch. 240, § 6; April 19.