**South Carolina General Assembly**

120th Session, 2013-2014

**S. 468**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Fair and Bryant

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Introduced in the Senate on February 28, 2013

Currently residing in the Senate Committee on **Judiciary**

Summary: Foreign defamation judgment

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/28/2013 Senate Introduced and read first time ([Senate Journal‑page 9](file:///h:\SJ%20Archive\2013\02-28-13.docx))

2/28/2013 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 9](file:///h:\SJ%20Archive\2013\02-28-13.docx))

3/8/2013 Senate Referred to Subcommittee: Campsen (ch), Coleman, Hembree

**VERSIONS OF THIS BILL**

[2/28/2013](file:///p:\pprever\2013-14\468_20130228.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 15‑3‑700 SO AS TO define the termS “fOREIGN DEFAMATION ACTION” AND “foreign defamation judgment”, to expand protections for citizens against FOREIGN DEFAMATION judgments by providing for declaratory and injunctive relief, and to further limit the recognition afforded to these foreign judgments.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 5, Chapter 3, Title 15 of the 1976 Code is amended by adding:

“Section 15‑3‑700. (A) For the purposes of this section, the term:

(1) ‘foreign defamation action’ means a legal proceeding instituted in a jurisdiction outside of a state or territory of the United States which was founded on a cause of action arising from allegations of defamation, libel, or slander.

(2) ‘foreign defamation judgment’ means a judgment or decree rendered in a jurisdiction outside of a state or territory of the United States which was founded on a cause of action arising from allegations of defamation, libel, or slander.

(B) A foreign defamation judgment is not conclusive if any of the following apply, the:

(1) judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(2) foreign court did not have personal jurisdiction over the defendant; or

(3) foreign court did not have jurisdiction over the subject matter.

(C) A foreign defamation judgment may not be recognized, granted comity, or operate as res judicata or collateral estoppel if any of the following apply:

(1) the defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to provide a defense;

(2) the judgment was obtained by fraud;

(3) the cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this State;

(4) the judgment conflicts with another final and conclusive order;

(5) the proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court;

(6) in the case of jurisdiction based only on personal service, the foreign court was an inconvenient forum for the trial of the action;

(7) the foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this State; or

(8) the court sitting in this State before which the matter is brought determines that the defamation law applied in the adjudication by the foreign court failed to provide at least as much protection for freedom of speech and press in that case as would be provided by the constitutions of this State and the United States.

(D) A person against whom a foreign defamation judgment is entered, whether the foreign defamation judgment is final or appealable, may bring an action in circuit court for a declaration with respect to the liability of a person for the judgment and determining whether the foreign defamation judgment should be deemed unenforceable pursuant to the provisions of subsection (C).

(E) For the purposes of rendering declaratory relief, the courts of this State have personal jurisdiction over any person who obtains a judgment in a defamation proceeding outside the United States against any of the following persons, a:

(1) resident of this State;

(2) person or entity amenable to the jurisdiction of this State;

(3) person who has assets in this State; or

(4) person who may have to take action in this State to comply with the judgment.

(F) A person against whom a foreign defamation action has been instituted may bring an action for an injunction when the foreign defamation action would:

(1) frustrate a policy of the State, the guarantee of due process, and the protection of freedom of speech;

(2) be vexatious or oppressive; or

(3) when the proceedings prejudice other equitable considerations.

(G) For the purposes of rendering injunctive relief, the courts of this State have personal jurisdiction over any person who institutes a defamation proceeding outside the United States against any of the following persons, a:

(1) resident of this State;

(2) person or entity amenable to the jurisdiction of this State;

(3) person who has assets in this State; or

(4) person who may have to take action in this State to comply with the judgment.

(H) A court of this State may not sustain a dilatory exception of lis pendens asserted in a declaratory or injunctive proceeding pursuant to this section that was filed in a court of this State subsequent to the foreign defamation action.

(I) An action brought for declaratory or injunctive relief pursuant to this section may be brought in:

(1) a court of proper venue; or

(2) in either the county where the plaintiff resides or the county where the plaintiff has assets.”

SECTION 2. This act takes effect upon approval by the Governor.

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