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WEST'S NORTH CAROLINA GENERAL STATUTES ANNOTATED
CHAPTER 1E. EASTERN BAND OF CHEROKEE INDIANS
ARTICLE 1. FULL FAITH AND CREDIT

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Current through the 2002 Regular Session

§ 1E-1. Full faith and credit

(a) The courts of this State shall give full faith and credit to a judgment, decree, or order signed by a judicial officer of the **Eastern Band of Cherokee Indians** and filed in the **Cherokee Tribal Court** to the same extent as is given a judgment, decree, or order of another state, subject to the provisions of subsection (b) of this section; provided that the judgments, decrees, and orders of the courts of this State are given full faith and credit by the Tribal Court of the **Eastern Band of Cherokee Indians**.

(b) Judgments, decrees, and orders specified in subsection (a) of this section shall be given full faith and credit subject to the provisions of G.S. 1C-1705, G.S. 1C-1708, G.S. 1C-1804, and G.S. 1C-1805 and shall be considered a foreign judgment for purposes of these statutes.

Added by S.L. 2001-456, § 1, eff. Oct. 29, 2001.

<General Materials (GM) - References, Annotations, or Tables>

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Cherokee Code Sec. 25-5. Enforcement of foreign judgments.

- (a) Full faith and credit shall be given to judicial proceedings of all federal Courts, state Courts, and Courts of the federally recognized Indian nations, Tribes, or bands, including Courts of Indian offenses that extend full faith and credit to judgments and orders of the Eastern Band of Cherokee Court. The purpose of this chapter is to promote justice, encourage better relations between the Eastern Band and other jurisdictions, and to encourage reciprocal action by foreign Courts. Additionally, the Court may enforce a foreign judgment under principles of comity when it would serve justice to do so.
- (b) Any person who has obtained a foreign court judgment shall be entitled to seek enforcement of the judgment through the Court. The judicial orders and judgments of foreign Courts, unless objected to, have the same effect and are subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as judgments of the Eastern Band of Cherokee Court and shall be enforced or satisfied in like manner.
- (c) The petitioner shall file a written petition with the Clerk of the Court, which shall be accompanied by an authenticated copy of the foreign Court's judgment sought to be enforced. The petition shall set forth the following:
- (1) The names of all parties to the foreign Court judgment sought to be recognized and their respective addresses;
 - (2) The type of relief granted in the foreign Court's judgment;
 - (3) The date the foreign Court's judgment was entered;
 - (4) The record of any subsequent entries or Court actions affecting the foreign Court's judgment, such as levies, execution, garnishment, payments in partial satisfaction, etc.; and
 - (5) Any additional information the petitioner believes relevant.
- (d) Promptly upon the filing of the foreign judgment the Clerk of the Court shall serve notice of the filing of the foreign judgment to the judgment debtor. The judgment debtor shall have 15 days in which to file an objection to the recognition of the foreign Court judgment with the Court, if there is no such objection, the judgment shall be enforced.
- (e) If recognition of a judgment is objected to by the judgment debtor, the Judge must be satisfied, upon application and proof by the judgment debtor with respect to subsections (1) through (5), that the following conditions are present:
- (1) The foreign court had personal and subject matter jurisdiction;
 - (2) The order or judgment was obtained without, fraud, duress, or coercion;
 - (3) The order of judgment was obtained through a process that afforded fair notice and fair hearing;
 - (4) The order or judgment does not contravene the public policy of the Eastern Band of Cherokee Indians; and
 - (5) The order or judgment is final, valid and enforceable under the laws and procedures of the rendering Court.
- (f) If the Court is satisfied that the five elements listed above been met, then the Court shall enter a judgment in favor of the petitioner which shall entitle the petitioner to enforce his judgment against the judgment creditor in the Tribe's jurisdiction.
- (g) Pursuant to 108 Stat. 1796, of the federal statutes, the Eastern Band of Cherokee Court shall give full faith and credit to all Protection Orders issued consistently with subsection (b) of said statute provided the Protection Order is filed with the Court and entered with law enforcement within 30 days of Court jurisdictional residency. However, law enforcement may immediately enforce a Protection Order during the interim when provided with notice and a copy of the Protection Order.

(Ord. No. 333-A, 11-5-1998; Ord. No. 548, 5-13-1999)