

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 1662

 Session of 1993

INTRODUCED BY McNALLY, MIHALICH, LAUB, VEON, SEMMEL, TRELLO,  
BELFANTI, BATTISTO, PISTELLA AND JAMES, MAY 26, 1993

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
OCTOBER 13, 1993

## AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, adding provisions  
3 relating to foreign-money claims; AND REGULATING TESTIMONY OF <—  
4 DEFENDANTS AS TO OTHER OFFENSES.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Chapter 53 of Title 42 of the Pennsylvania  
8 Consolidated Statutes is amended by adding a subchapter to read:

## CHAPTER 53

## BASES OF JURISDICTION AND INTERSTATE

## AND INTERNATIONAL PROCEDURE

\* \* \*

## SUBCHAPTER D

## FOREIGN-MONEY CLAIMS

15 Sec.

16 5371. Short title of subchapter.

17 5372. Definitions.

18 5373. Scope of subchapter.

1 5374. Variation by agreement.  
2 5375. Determining money of claim.  
3 5376. Determining amount of money of certain contract claims.  
4 5377. Asserting and defending foreign-money claim.  
5 5378. Judgments and awards on foreign-money claims.  
6 5379. Incidental and consequential damages.  
7 5380. Conversions of foreign money in distribution  
8 proceeding.  
9 5381. Prejudgment and judgment interest.  
10 5382. Enforcement of foreign judgments.  
11 5383. Determining United States dollar value of foreign-money  
12 claims for limited purposes.  
13 5384. Effect of currency revalorization.  
14 5385. Supplementary general principles of law.  
15 5386. Uniformity of application and construction.  
16 § 5371. Short title of subchapter.

17 This subchapter shall be known and may be cited as the  
18 Uniform Foreign-Money Claims Act.

19 § 5372. Definitions.

20 The following words and phrases when used in this subchapter  
21 shall have the meanings given to them in this section unless the  
22 context clearly indicates otherwise:

23 "Action." A judicial proceeding or arbitration in which a  
24 payment in money may be awarded or enforced with respect to a  
25 foreign-money claim.

26 "Bank-offered spot rate." The spot rate of exchange at which  
27 a bank will sell foreign money at a spot rate.

28 "Conversion date." The banking day next preceding the date  
29 on which money, in accordance with this subchapter, is:

30 (1) paid to a claimant in an action or distribution

1 proceeding;

2 (2) paid to the official designated by law to enforce a  
3 judgment or award on behalf of a claimant; or

4 (3) used to recoup, set off or counterclaim in different  
5 moneys in an action or distribution proceeding.

6 "Distribution proceeding." A judicial or nonjudicial  
7 proceeding for the distribution of a fund in which one or more  
8 foreign-money claims are asserted. The term includes an  
9 accounting, an assignment for the benefit of creditors, a  
10 foreclosure, the liquidation or rehabilitation of a corporation  
11 or other entity and the distribution of an estate, trust or  
12 other fund.

13 "Foreign money." Money other than money of the United States  
14 of America.

15 "Foreign-money claim." A claim upon an obligation to pay, or  
16 a claim for recovery of a loss, expressed in or measured by a  
17 foreign money.

18 "Money." A medium of exchange for the payment of obligations  
19 or a store of value authorized or adopted by a government or by  
20 intergovernmental agreement.

21 "Money of the claim." The money determined as proper  
22 pursuant to section 5375 (relating to determining money of  
23 claim).

24 "Person." An individual, corporation, government or  
25 governmental subdivision or agency, business trust, estate,  
26 trust, joint venture, partnership, association, two or more  
27 persons having a joint or common interest or any other legal or  
28 commercial entity.

29 "Rate of exchange." The rate at which money of one country  
30 may be converted into money of another country in a free

1 financial market convenient to or reasonably usable by a person  
2 obligated to pay or to state a rate of conversion. If separate  
3 rates of exchange apply to different kinds of transactions, the  
4 term means the rate applicable to the particular transaction  
5 giving rise to the foreign-money claim.

6 "Spot rate." The rate of exchange at which foreign money is  
7 sold by a bank or other dealer in foreign exchange for immediate  
8 or next-day availability or for settlement by immediate payment  
9 in cash or equivalent, by charge to an account or by an agreed  
10 delayed settlement not exceeding two days.

11 "State." A state of the United States, the District of  
12 Columbia, the Commonwealth of Puerto Rico or a territory or  
13 insular possession subject to the jurisdiction of the United  
14 States.

15 § 5373. Scope of subchapter.

16 (a) General rule.--This subchapter applies only to a  
17 foreign-money claim in an action or distribution proceeding.

18 (b) Effect of conflict-of-laws rules.--This subchapter  
19 applies to foreign-money issues even if other law under the  
20 conflict-of-laws rules of this Commonwealth applies to other  
21 issues in the action or distribution proceeding.

22 § 5374. Variation by agreement.

23 (a) General rule.--The effect of this subchapter may be  
24 varied by agreement of the parties made before or after  
25 commencement of an action or distribution proceeding or the  
26 entry of judgment.

27 (b) Money to be used.--Parties to a transaction may agree  
28 upon the money to be used in a transaction giving rise to a  
29 foreign-money claim and may agree to use different moneys for  
30 different aspects of the transaction. Stating the price in a

1 foreign money for one aspect of a transaction does not alone  
2 require the use of that money for other aspects of the  
3 transaction.

4 § 5375. Determining money of claim.

5 (a) Determination by agreement.--If the parties to a  
6 transaction have agreed that a specific money shall be used to  
7 govern all events concerning a transaction among them, that  
8 money shall be the money of the claim.

9 (b) Determination in absence of agreement.--If the parties  
10 to a transaction have not otherwise agreed, the money of the  
11 claim shall be the money in which the party claimant suffered  
12 the loss, provided the parties could reasonably have foreseen  
13 that the loss would be suffered in such money.

14 (c) Other cases.--In the event the money of the claim is not  
15 subject to determination by the application of subsection (a) or  
16 (b), the money of the claim shall be the money in which the  
17 parties should reasonably have foreseen that the party claimant  
18 would suffer a loss, taking into account:

19 (1) the money in which the party claimant customarily  
20 kept its accounts at the time the transaction was entered or  
21 the loss was suffered;

22 (2) the money regularly used between the parties as a  
23 matter of usage or course of dealing; and

24 (3) the money used at the time of the transaction in  
25 international trade, by trade usage or common practice, for  
26 valuing or settling transactions in the particular commodity  
27 or service involved.

28 § 5376. Determining amount of money of certain contract claims.

29 (a) Specified amount of different money.--If an amount  
30 contracted to be paid in a foreign money is measured by a

1 specified amount of a different money, the amount to be paid is  
2 determined on the conversion date if, and only if, payment is  
3 made within a reasonable time after the date required by the  
4 contract, not exceeding 30 days.

5 (b) Different money at exchange rate prevailing before  
6 default.--If an amount contracted to be paid in a foreign money  
7 is to be measured by a different money at the rate of exchange  
8 prevailing on a date before default, that rate of exchange  
9 applies only to payments made within a reasonable time after  
10 default, not exceeding 30 days. Thereafter, conversion is made  
11 at the bank-offered spot rate on the conversion date.

12 (c) Specifying minimum amount to be received.--A monetary  
13 claim is neither usurious nor unconscionable because the  
14 agreement on which it is based provides that the amount of the  
15 debtor's obligation to be paid in the debtor's money, when  
16 received by the creditor, must equal a specified amount of the  
17 foreign money of the country of the creditor. If, because of  
18 unexcused delay in payment of a judgment or award, the amount  
19 received by the creditor does not equal the amount of the  
20 foreign money specified in the agreement, the court or  
21 arbitrator shall amend the judgment or award accordingly.

22 § 5377. Asserting and defending foreign-money claim.

23 (a) Asserting claim.--A person may assert a claim in a  
24 specified foreign money. If a foreign-money claim is not  
25 asserted, the claimant makes the claim in United States dollars.

26 (b) Defending claim.--An opposing party may allege and prove  
27 that a claim, in whole or in part, is in a different money than  
28 that asserted by the claimant.

29 (c) Asserting defense, setoff, recoupment or counterclaim.--  
30 A person may assert a defense, setoff, recoupment or

1 counterclaim in any money without regard to the money of other  
2 claims.

3 (d) Determination is question of law.--The determination of  
4 the proper money of the claim is a question of law.

5 § 5378. Judgments and awards on foreign-money claims.

6 (a) Stating in amount of money.--Except as provided in  
7 subsection (c), a judgment or award on a foreign-money claim  
8 must be stated in an amount of the money of the claim.

9 (b) Money in which payable.--A judgment or award on a  
10 foreign-money claim is payable in that foreign money or, at the  
11 option of the debtor, in the amount of United States dollars  
12 which will purchase that foreign money on the conversion date at  
13 a bank-offered spot rate.

14 (c) Entry of assessed costs.--Assessed costs must be entered  
15 in United States dollars.

16 (d) Accepting and crediting payments.--Each payment in  
17 United States dollars must be accepted and credited on a  
18 judgment or award on a foreign-money claim in the amount of the  
19 foreign money that could be purchased by the dollars at a bank-  
20 offered spot rate of exchange at or near the close of business  
21 on the conversion date for that payment.

22 (e) Adverse party's claim.--A judgment or award made in an  
23 action or distribution proceeding on both:

24 (1) a defense, setoff, recoupment or counterclaim; and

25 (2) the adverse party's claim;

26 must be netted by converting the money of the smaller into the  
27 money of the larger and by subtracting the smaller from the  
28 larger, and specify the rates of exchange used.

29 (f) Form of judgment.--A judgment substantially in the  
30 following form complies with subsection (a):

1           IT IS ADJUDGED AND ORDERED, that the Defendant (insert  
2       name) pay to the Plaintiff (insert name) the sum of (insert  
3       amount in the foreign money) plus interest on that sum at the  
4       lawful rate or, at the option of the judgment debtor, the  
5       number of United States dollars which will purchase the  
6       (insert name of foreign money) with interest due, at a bank-  
7       offered spot rate at or near the close of business on the  
8       banking day next before the day of payment, together with  
9       assessed costs of (insert amount) United States dollars.

10       (g) Determining amount of money.--If a contract claim is of  
11      the type covered by section 5376(a) or (b) (relating to  
12      determining amount of money of certain contract claims), the  
13      judgment or award must be entered for the amount of money stated  
14      to measure the obligation to be paid in the money specified for  
15      payment or, at the option of the debtor, the number of United  
16      States dollars which will purchase the computed amount of money  
17      of payment on the conversion date at a bank-offered spot rate.

18       (h) Filing and discharge of judgment.--A judgment must be  
19      filed and indexed in foreign money in the same manner as other  
20      judgments and has the same effect as a lien. It may be  
21      discharged by payment.

22      § 5379. Incidental and consequential damages.

23       If the selection of the money of the claim under section 5375  
24      (relating to determining money of claim) results in less than  
25      full compensation of the loss suffered by the party claimant as  
26      a result of delay in the payment of a foreign money obligation,  
27      additional damages may be awarded as are necessary to place the  
28      party claimant in the economic position it would have been in  
29      had the event leading to the claim not occurred.

30      § 5380. Conversions of foreign money in distribution

1 proceeding.

2 The rate of exchange prevailing at or near the close of  
3 business on the day the distribution proceeding is initiated  
4 governs all exchanges of foreign money in a distribution  
5 proceeding. A foreign-money claimant in a distribution  
6 proceeding shall assert its claim in the named foreign money and  
7 show the amount of United States dollars resulting from a  
8 conversion as of the date the proceeding was initiated.

9 § 5381. Prejudgment and judgment interest.

10 (a) Law applicable.--With respect to a foreign-money claim,  
11 recovery of prejudgment or preaward interest and the rate of  
12 interest to be applied in the action or distribution proceeding,  
13 except as provided in subsection (b), are matters of the  
14 substantive law governing the right to recovery under the  
15 conflict-of-laws rules in this Commonwealth.

16 (b) Increase or decrease in amount of interest.--The court  
17 or arbitrator shall increase or decrease the amount of  
18 prejudgment or preaward interest otherwise payable in a judgment  
19 or award in foreign money to the extent required by the laws of  
20 this Commonwealth governing a failure to make or accept an offer  
21 of settlement or offer of judgment, or conduct by a party or its  
22 attorney causing undue delay or expense.

23 (c) Interest rate.--A judgment or award on a foreign-money  
24 claim bears interest at the rate applicable to judgments of this  
25 Commonwealth.

26 § 5382. Enforcement of foreign judgments.

27 (a) Entry of enforcing judgment.--If an action is brought to  
28 enforce a judgment of another jurisdiction expressed in a  
29 foreign money and the judgment is recognized in this  
30 Commonwealth as enforceable, the enforcing judgment must be

1 entered as provided in section 5378 (relating to judgment and  
2 awards on foreign-money claims) whether or not the foreign  
3 judgment confers an option to pay in an equivalent amount of  
4 United States dollars.

5 (b) Filing of foreign judgment.--A foreign judgment may be  
6 filed in accordance with any rule or statute of this  
7 Commonwealth providing a procedure for its recognition and  
8 enforcement.

9 (c) Credit for satisfaction or partial payment.--A  
10 satisfaction or partial payment made upon the foreign judgment,  
11 on proof thereof, must be credited against the amount of foreign  
12 money specified in the judgment, notwithstanding the entry of  
13 judgment in this Commonwealth.

14 (d) Judgment entered in another state.--A judgment entered  
15 on a foreign-money claim only in United States dollars in  
16 another state must be enforced in this Commonwealth in United  
17 States dollars only.

18 § 5383. Determining United States dollar value of foreign-money  
19 claims for limited purposes.

20 (a) Purpose of computations under section.--Computations  
21 under this section are for the limited purposes of the section  
22 and do not affect computation of the United States dollar  
23 equivalent of the money of the judgment for the purpose of  
24 payment.

25 (b) Matters that require determination.--For the limited  
26 purpose of facilitating the enforcement of provisional remedies  
27 in an action, the value in United States dollars of assets to be  
28 seized or restrained under a writ of attachment, garnishment,  
29 execution or other legal process, the amount of United States  
30 dollars at issue for assessing costs or the amount of United

1 States dollars involved for a surety bond or other court-  
2 required undertaking must be ascertained as provided in  
3 subsections (c) and (d).

4 (c) Computation of amount of money claimed.--A party seeking  
5 process, costs, bond or other undertaking under subsection (b)  
6 shall compute in United States dollars the amount of the foreign  
7 money claimed from a bank-offered spot rate prevailing at or  
8 near the close of business on the banking day next preceding the  
9 filing of a request or application for the issuance of process  
10 or for the determination of costs or an application for a bond  
11 or other court-required undertaking.

12 (d) Affidavit or certificate to be filed.--A party seeking  
13 the process, costs, bond or other undertaking under subsection  
14 (b) shall file with each request or application an affidavit or  
15 certificate, executed in good faith by its counsel or a bank  
16 officer, stating the market quotation used and how it was  
17 obtained and setting forth the calculation. Affected court  
18 officials incur no liability, after filing of the affidavit or  
19 certificate, for acting as if the judgment were in the amount of  
20 United States dollars stated in the affidavit or certificate.

21 § 5384. Effect of currency revalorization.

22 (a) General rule.--If, after an obligation is expressed or a  
23 loss is incurred in a foreign money, the country issuing or  
24 adopting that money substitutes a new money in place of that  
25 money, the obligation or the loss is treated as if expressed or  
26 incurred in the new money at the rate of conversion the issuing  
27 country establishes for the payment of like obligations or  
28 losses denominated in the former money.

29 (b) Substitution after entry of judgment or award.--If  
30 substitution under subsection (a) occurs after a judgment or

1 award is entered on a foreign-money claim, the court or  
2 arbitrator shall amend the judgment or award by a like  
3 conversion of the former money.

4 § 5385. Supplementary general principles of law.

5 Unless displaced by particular provisions of this subchapter,  
6 the principles of law and equity, including the law merchant,  
7 and the law relative to capacity to contract, principal and  
8 agent, estoppel, fraud, misrepresentation, duress, coercion,  
9 mistake, bankruptcy or other validating or invalidating causes  
10 supplement its provisions.

11 § 5386. Uniformity of application and construction.

12 This subchapter shall be applied and construed to effectuate  
13 its general purpose to make uniform the law with respect to the  
14 subject of this subchapter among states enacting it.

15 SECTION 2. SECTION 5918 OF TITLE 42 IS AMENDED TO READ:

<—

16 § 5918. EXAMINATION OF DEFENDANT AS TO OTHER OFFENSES.

17 NO PERSON CHARGED WITH ANY CRIME AND CALLED AS A WITNESS IN  
18 HIS OWN BEHALF, SHALL BE ASKED, OR IF ASKED, SHALL BE REQUIRED  
19 TO ANSWER, ANY QUESTION TENDING TO SHOW THAT HE HAS COMMITTED,  
20 OR BEEN CHARGED WITH, OR BEEN CONVICTED OF ANY OFFENSE OTHER  
21 THAN THE ONE WHEREWITH HE SHALL THEN BE CHARGED, OR TENDING TO  
22 SHOW THAT HE HAS BEEN OF BAD CHARACTER OR REPUTATION UNLESS:

23 (1) HE SHALL HAVE AT SUCH TRIAL, PERSONALLY OR BY  
24 COUNSEL, ASKED QUESTIONS OF THE WITNESS FOR THE PROSECUTION  
25 WITH A VIEW TO ESTABLISH HIS OWN GOOD REPUTATION OR  
26 CHARACTER, OR HAS GIVEN EVIDENCE TENDING TO PROVE HIS OWN  
27 GOOD CHARACTER OR REPUTATION; [OR]

28 (2) HE SHALL HAVE TESTIFIED AT SUCH TRIAL AGAINST A CO-  
29 DEFENDANT, CHARGED WITH THE SAME OFFENSE[.]; OR

30 (3) THE QUESTION REFERS TO A PRIOR CONVICTION OF A CRIME

OF DISHONESTY OR A CRIME INVOLVING FALSEHOOD AND THE  
TESTIMONY ELICITED THEREFROM OCCURS NOT LATER THAN TEN YEARS  
FOLLOWING:

(I) THE DATE OF CONVICTION; OR

(II) THE LAST DAY OF CONFINEMENT FOR THAT OFFENSE,

WHICHEVER COMES LATER.

Section 2 3. This act shall apply to actions and distribution proceedings commenced after the effective date of this act.

Section 3 4. This act shall take effect January 1 of the year following the year of final enactment.