

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 498

Introduced by Brasch, 16.

Read first time January 23, 2013

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to court actions; to provide for declaratory
- 2 judgment and injunctive relief against foreign defamation
- 3 judgments.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) For purposes of this section:

2 (a) Foreign defamation action means a legal proceeding
3 instituted in a jurisdiction outside of any state or territory of the
4 United States which was founded on a cause of action arising from
5 allegations of defamation, libel, or slander; and

6 (b) Foreign defamation judgment means a judgement or
7 decree rendered in a foreign defamation action.

8 (2) A foreign defamation judgment is not conclusive if:

9 (a) The judgment was rendered under a system which does
10 not provide impartial tribunals or procedures compatible with the
11 requirements of due process of law in the United States;

12 (b) The foreign court did not have personal jurisdiction
13 over the defendant as required in the United States; or

14 (c) The foreign court did not have jurisdiction over the
15 subject matter as required in the United States.

16 (3) A foreign defamation judgment shall not be
17 recognized, be granted comity, or operate as res judicata or
18 collateral estoppel if:

19 (a) The defendant in the proceeding in the foreign court
20 did not receive notice of the proceeding in sufficient time to enable
21 such defendant to provide a defense;

22 (b) The judgment was obtained by fraud;

23 (c) The cause of action or claim for relief on which the
24 judgment is based is repugnant to the public policy of this state;

25 (d) The judgment conflicts with another final and

1 conclusive order;

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

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

8 (g) The foreign jurisdiction where judgment was rendered
9 would not give recognition to a similar judgment rendered in this
10 state; or

11 (h) The district court of this state before which the
12 matter is brought determines that the defamation law applied in the
13 adjudication by the foreign court failed to provide at least as much
14 protection for freedom of speech and press as would be provided by
15 the constitutions of this state and the United States.

16 (4) Any person against whom a foreign defamation judgment
17 is entered, whether the foreign defamation judgment is final or
18 appealable, may bring a declaratory judgment action in district court
19 for a declaration with respect to the liability of such person for
20 the judgment and to determine whether the foreign defamation judgment
21 should be deemed unenforceable pursuant to subsection (3) of this
22 section.

23 (5) Any person against who a foreign defamation action
24 has been instituted may bring an action for injunctive relief if the
25 foreign defamation action would (a) frustrate a policy of this state,

1 the guarantee of due process, or the protection of freedom of speech,
2 (b) be vexatious or oppressive, or (c) prejudice other equitable
3 considerations.

4 (6) For purposes of rendering a declaratory judgment or
5 injunctive relief, the courts of this state shall be deemed to have
6 personal jurisdiction over any person who institutes a defamation
7 proceeding outside the United States against:

8 (a) A resident of this state;

9 (b) A person or entity amenable to the jurisdiction of
10 this state;

11 (c) A person who has assets in this state; or

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

14 (7) No court of this state shall sustain a dilatory
15 exception of lis pendens asserted in a proceeding under this section
16 that was filed in a court of this state subsequent to the foreign
17 defamation action.

18 (8) An action for declaratory judgment or injunctive
19 relief pursuant to this section may be brought in the district court
20 of this state in either the county where the plaintiff resides or the
21 county where the plaintiff has assets.