

1 OSAGE NATION CONGRESS

2  
3 2d Session of the 1<sup>st</sup> Congress

4  
5 BILL NUMBER ONCA 07-36

6  
7 ENROLLED

8  
9 April 13, 2007

10  
11 SPONSOR: Congresswoman Shannon Edwards

12  
13 CO-SPONSOR(S): Congressman Doug Revard, Congressman Archie Mason,  
14 Congressman Anthony Shackelford

15  
16 **An Act**

17 To provide for the filing and recognition of a foreign judgment by the Osage Nation.

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19 *Be it enacted by the Congress of the Osage Nation:*

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21 **SECTION 1. SHORT TITLE**

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23 This Act may be cited as the "Osage Nation Foreign Judgment Act"

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25 **SECTION 2. DEFINITIONS**

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27 "Foreign Judgment" means any judgment, decree, or order of a Court of the  
28 United States, a state court which grants full faith and credit to judgments of the Osage  
29 Nation Courts, any Indian Nation, or of any other Court which is entitled to comity or full  
30 faith and credit in the Tribal Court.

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32 **SECTION 3. FILING AND STATUS OF FOREIGN JUDGMENTS**

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34 A copy of any foreign judgment authenticated in accordance with the applicable  
35 court rule or statute of the Osage Nation may be filed in the office of the Osage Nation  
36 Court Clerk. The clerk shall treat the foreign judgment in the same manner as a judgment  
37 of the Trial Court. A judgment so filed has the same effect and is subject to the same  
38 procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment  
39 of the Trial and may be enforced or satisfied in like manner. Provided, however, that no  
40 such filed foreign judgment shall be a lien on real estate of the judgment debtor until a  
41 certified copy of the judgment so filed is also filed in the office of the Court Clerk in the  
42 land tract record book.

43 **SECTION 4. GROUNDS FOR NON-RECOGNITION**

44 (a) A foreign judgment is not conclusive if:

- 45 (1) The judgment was rendered under a system which does not  
46 provide  
47 impartial tribunals or procedures compatible with the requirements of due  
48 process of law; or
- 49 (2) The foreign court did not have personal jurisdiction over the  
50 defendant; or
- 51 (3) The foreign court did not have jurisdiction over the subject matter.
- 52 (b) A foreign judgment need not be recognized if:  
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- 54 (1) The defendant in the proceedings in the foreign court did not receive  
55 notice of the proceedings in sufficient time to enable him to defend;  
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- 57 (2) The judgment was obtained by fraud; or  
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- 59 (3) The cause of action on which the judgment is based is repugnant to the  
60 public policy of the Nation; or  
61
- 62 (4) The judgment conflicts with another final and conclusive judgment; or  
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- 64 (5) The proceeding in the foreign court was contrary to an agreement  
65 between the parties under which the dispute in question was to be settled  
66 otherwise than by proceedings in that court; or  
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- 68 (6) In the case of jurisdiction based only on personal service, the foreign  
69 court was seriously inconvenient forum for the trial of action.

70 **SECTION 5. NOTICE OF FILING**

- 71 (a) At the time of the filing of the foreign judgment, the judgment creditor or  
72 his lawyer shall make and file with the clerk of the Court an affidavit setting forth  
73 the name and last known post-office address of the judgment debtor, and of the  
74 judgment creditor.  
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- 76 (b) Promptly upon the filing of the foreign judgment and the affidavit, the  
77 clerk shall mail notice of the filing of the foreign judgment to the judgment debtor  
78 at the address given and shall make a note of the mailing in the docket. The notice  
79 shall include the name and post-office address of the judgment creditor. and the  
80 judgment creditor's lawyer, if any. In addition, the judgment creditor may mail a  
81 notice of the filing of the judgment to the judgment debtor and may file proof of  
82 mailing with the clerk. Lack of notice of filing by the clerk shall not affect the  
83 enforcement proceedings if proof of mailing by the judgment creditor has been  
84 filed.

85 (c) No execution or other process for enforcement of a foreign judgment filed  
86 hereunder shall issue until twenty (20) days after the date the judgment is filed.

87 **SECTION 6. STAY OF EXECUTION OF FOREIGN JUDGMENT**

88 (a) If the judgment debtor shows the Trial Court that an appeal from the  
89 foreign judgment is pending or will be taken, or that a stay of execution has been  
90 granted, the Court shall stay enforcement of the foreign judgment until the appeal  
91 is concluded, or until the time for appeal expires, or until the stay of execution  
92 expires or is vacated, upon proof that the judgment debtor has furnished the  
93 security for the satisfaction of the judgment required by the law of the jurisdiction  
94 in which it was rendered.

95 (b) If the judgment debtor shows the Trial Court any ground upon which  
96 enforcement of a judgment of the Trial Court would be stayed, the Court shall  
97 stay enforcement of the foreign judgment for an appropriate period, upon  
98 requiring the same security for satisfaction of the judgment which is required in  
99 the Trial jurisdiction.

100 **SECTION 7. FEES**

101 Any person filing a foreign judgment shall pay to the Court Clerk those fees now  
102 and hereafter prescribed Court rule for the filing of an action in the Court. Fees for  
103 docketing, transcription or other enforcement proceedings shall be the same as provided  
104 for judgments of the Trial District Court.

105 **SECTION 8. OPTIONAL PROCEDURE**

106 The right of a judgment creditor to bring an action to enforce his judgment instead  
107 of proceedings under this subchapter remains unimpaired.

108 **SECTION 9. SEVERABILITY**

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110 If any provision of this Act or the application of such provision to any person,  
111 firm, association, corporation, or circumstances shall be held invalid, the remainder of the  
112 Act and the application of such provision to persons, firms, associations, corporations, or  
113 circumstances other than those as to which it is held invalid shall not be affected thereby.  
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115 **SECTION 10. DECLARATION OF EMERGENCY AND EFFECTIVE DATE**

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117 An emergency exists. This bill is effective upon signature of the Principal Chief  
118 or upon signature of the Speaker of the Osage Nation Congress following legislative  
119 override.  
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123 ENACTED by the Osage Nation Congress on this 17<sup>TH</sup> day of April, 2007.

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126 IN WITNESS WHEREOF, the Speaker of the Osage Nation Congress has  
127 hereto attached his signature.

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Archie Mason, Speaker  
Osage Nation Congress

### CERTIFICATION

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I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING IS A TRUE EXTRACT  
136 FROM THE MINUTES OF THE Osage Nation Congress comprised of twelve  
137 members and one ex-officio member with 12 members attending this meeting on  
138 the 14<sup>TH</sup> day of April, 2007, and that the above is in conformity with the  
139 provisions therein adopted by a vote of 11 in favor, 0 against, and 1 absent.

140

141

Faren Revard Anderson absent

142

Jerri Jean Branstetter yes

143

Shannon Edwards yes

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Mark Freeman yes

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Debra Littleton yes

146

Archie Mason yes

147

Raymond Red Corn yes

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Eddy Red Eagle, Jr. yes

149

Doug Revard yes

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Anthony Shackelford yes

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Mark Simms yes

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William Supernaw yes

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Said Bill has not been rescinded or amended in any way and the above is the signature of  
155 the Speaker of the Osage Nation Congress.

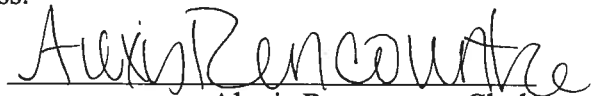
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Alexis Rencountre, Clerk  
Osage Nation Congress

### EFFECTIVE DATE CERTIFICATION

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I, THE UNDERSIGNED, CERTIFY THAT THE FOREGOING EFFECTIVE DATE  
164 was approved by a two-thirds vote of the Osage Nation Congress in accordance  
165 with the Constitution of the Osage Nation Article VI, Section 13. This provision  
166 was adopted by a vote of 11 in favor, 0 against, and 1 absent.

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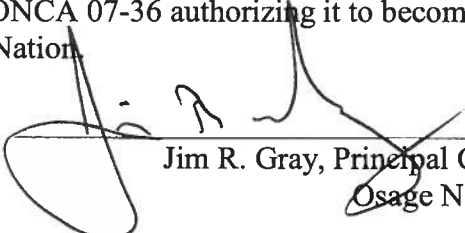
Faren Revard Anderson absent

169 Jerri Jean Branstetter yes  
170 Shannon Edwards yes  
171 Mark Freeman yes  
172 Debra Littleton yes  
173 Archie Mason yes  
174 Raymond Red Corn yes  
175 Eddy Red Eagle, Jr. yes  
176 Doug Revard yes  
177 Anthony Shackelford yes  
178 Mark Simms yes  
179 William Supernaw yes

  
Alexis Rencountre, Clerk  
Osage Nation Congress

**APPROVAL**

189 I, the Principal Chief of the Osage Nation, hereby affix my signature this 19<sup>th</sup> day of  
190 April, 2007, to the above Bill No. ONCA 07-36 authorizing it to become a  
191 law under the Constitution of the Osage Nation.

  
Jim R. Gray, Principal Chief  
Osage Nation

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