

(e) SCOPE OF OBLIGATIONS DETERMINED BY PRIVATE AGREEMENT.—Nothing in this section shall expand or diminish the rights, obligations, or remedies of any person under the collective bargaining agreements or assumption agreements referred to in this section.

(f) FAILURE TO NOTIFY.—If the transferor under subsection (a) fails to notify the transferee under subsection (a) of applicable collective bargaining obligations before the execution of the transfer instrument, and subsection (a) is made applicable to the transferee solely by virtue of subsection (a)(1)(B), the transferor shall be liable to the transferee for any damages suffered by the transferee as a result of the failure to notify.

(g) DETERMINATION OF DISPUTES AND CLAIMS.—Any dispute concerning the application of subsections (a) through (f) shall be determined by an action in United States district court, and the court in its discretion may allow the recovery of full costs by or against any party and may also award a reasonable attorney's fee to the prevailing party as part of the costs.

(h) STUDY.—The Comptroller General, in consultation with the Register of Copyrights, shall conduct a study of the conditions in the motion picture industry that gave rise to this section, and the impact of this section on the motion picture industry. The Comptroller General shall report the findings of the study to the Congress within 2 years after the effective date of this chapter.

(Added Pub. L. 105-304, title IV, § 406(a), Oct. 28, 1998, 112 Stat. 2903.)

#### REFERENCES IN TEXT

The effective date of this chapter, referred to in subsecs. (a) and (h), is Oct. 28, 1998. See Effective Date of 1998 Amendment note set out under section 108 of Title 17, Copyrights.

### CHAPTER 181—FOREIGN JUDGMENTS

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#### § 4101. Definitions

In this chapter:

(1) DEFAMATION.—The term “defamation” means any action or other proceeding for defamation, libel, slander, or similar claim alleging that forms of speech are false, have caused damage to reputation or emotional distress, have presented any person in a false light, or have resulted in criticism, dishonor, or condemnation of any person.

(2) DOMESTIC COURT.—The term “domestic court” means a Federal court or a court of any State.

(3) FOREIGN COURT.—The term “foreign court” means a court, administrative body, or other tribunal of a foreign country.

(4) FOREIGN JUDGMENT.—The term “foreign judgment” means a final judgment rendered by a foreign court.

(5) STATE.—The term “State” means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(6) UNITED STATES PERSON.—The term “United States person” means—

(A) a United States citizen;

(B) an alien lawfully admitted for permanent residence to the United States;

(C) an alien lawfully residing in the United States at the time that the speech that is the subject of the foreign defamation action was researched, prepared, or disseminated; or

(D) a business entity incorporated in, or with its primary location or place of operation in, the United States.

(Added Pub. L. 111-223, § 3(a), Aug. 10, 2010, 124 Stat. 2381.)

#### FINDINGS

Pub. L. 111-223, § 2, Aug. 10, 2010, 124 Stat. 2380, provided that: “Congress finds the following:

“(1) The freedom of speech and the press is enshrined in the first amendment to the Constitution, and is necessary to promote the vigorous dialogue necessary to shape public policy in a representative democracy.

“(2) Some persons are obstructing the free expression rights of United States authors and publishers, and in turn chilling the first amendment to the Constitution of the United States interest of the citizenry in receiving information on matters of importance, by seeking out foreign jurisdictions that do not provide the full extent of free-speech protections to authors and publishers that are available in the United States, and suing a United States author or publisher in that foreign jurisdiction.

“(3) These foreign defamation lawsuits not only suppress the free speech rights of the defendants to the suit, but inhibit other written speech that might otherwise have been written or published but for the fear of a foreign lawsuit.

“(4) The threat of the libel laws of some foreign countries is so dramatic that the United Nations Human Rights Committee examined the issue and indicated that in some instances the law of libel has served to discourage critical media reporting on matters of serious public interest, adversely affecting the ability of scholars and journalists to publish their work. The advent of the internet and the international distribution of foreign media also create the danger that one country's unduly restrictive libel law will affect freedom of expression worldwide on matters of valid public interest.

“(5) Governments and courts of foreign countries scattered around the world have failed to curtail this practice of permitting libel lawsuits against United States persons within their courts, and foreign libel judgments inconsistent with United States first amendment protections are increasingly common.”

#### § 4102. Recognition of foreign defamation judgments

(a) FIRST AMENDMENT CONSIDERATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a domestic court shall not recognize or enforce a foreign judgment for defamation unless the domestic court determines that—

(A) the defamation law applied in the foreign court's adjudication provided at least as much protection for freedom of speech and press in that case as would be provided by the first amendment to the Constitution

<sup>1</sup> So in original. Does not conform to section catchline.