

112TH CONGRESS  
2D SESSION

# H. R. 4086

To amend chapter 97 of title 28, United States Code, to clarify the exception to foreign sovereign immunity set forth in section 1605(a)(3) of such title.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 2012

Mr. CHABOT (for himself, Mr. CONYERS, Mr. SMITH of Texas, and Mr. COHEN) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend chapter 97 of title 28, United States Code, to clarify the exception to foreign sovereign immunity set forth in section 1605(a)(3) of such title.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Foreign Cultural Ex-  
5 change Jurisdictional Immunity Clarification Act”.

1 **SEC. 2. CLARIFICATION OF JURISDICTIONAL IMMUNITY OF**  
2 **FOREIGN STATES.**

3 (a) IN GENERAL.—Section 1605 of title 28, United  
4 States Code, is amended by adding at the end the fol-  
5 lowing:

6 “(h) JURISDICTIONAL IMMUNITY FOR CERTAIN ART  
7 EXHIBITION ACTIVITIES.—

8 “(1) IN GENERAL.—If—

9 “(A) a work is imported into the United  
10 States from any foreign country pursuant to an  
11 agreement that provides for the temporary exhi-  
12 bition or display of such work entered into be-  
13 tween a foreign state that it is the owner or  
14 custodian of such work and the United States  
15 or one or more cultural or educational institu-  
16 tions within the United States,

17 “(B) the President, or the President’s des-  
18 ignee, has determined, in accordance with Pub-  
19 lic Law 89–259 (22 U.S.C. 2459), that such  
20 work is of cultural significance and the tem-  
21 porary exhibition or display of such work is in  
22 the national interest; and

23 “(C) the notice thereof has been published  
24 in accordance with subsection (a) of Public Law  
25 89–259,

1 any activity in the United States of such foreign  
2 state, or of any carrier, that is associated with the  
3 temporary exhibition or display of such work shall  
4 not be considered to be commercial activity by such  
5 foreign state for purposes of subsection (a)(3) of  
6 this section.

7 “(2) NAZI ERA CLAIMS.—Paragraph (1) shall  
8 not apply in any case in which—

9 “(A) the action is based upon a claim that  
10 the work was taken in Europe in violation of  
11 international law by a covered government dur-  
12 ing the covered period;

13 “(B) the court determines that the activity  
14 associated with the exhibition or display is com-  
15 mercial activity, as that term is defined in sec-  
16 tion 1603(d) of this title; and

17 “(C) such determination is necessary for  
18 the court to exercise jurisdiction over the for-  
19 eign state under subsection (a)(3) of this sec-  
20 tion.

21 “(3) DEFINITIONS.—For purposes of this sub-  
22 section—

23 “(A) the term ‘work’ means a work of art  
24 or other object of cultural significance;

1           “(B) the term ‘covered government’  
2 means—

3           “(i) the Nazi government of Germany;

4           “(ii) any government in any area oc-  
5 cupied by the military forces of the Nazi  
6 government of Germany;

7           “(iii) any government established with  
8 the assistance or cooperation of the Nazi  
9 government of Germany; and

10           “(iv) any government that was an ally  
11 of the Nazi government of Germany during  
12 the covered period; and

13           “(C) the term ‘covered period’ means the  
14 period beginning on January 30, 1933, and  
15 ending on May 8, 1945.”.

16       (b) EFFECTIVE DATE.—The amendment made by  
17 this section shall apply to any civil action commenced on  
18 or after the date of the enactment of this Act.

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