

108TH CONGRESS  
2D SESSION

# H. R. 4875

To amend title 28, United States Code, to clarify that persons may bring private rights of actions against foreign states for certain terrorist acts, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2004

Mr. SAXTON (for himself, Mr. ANDREWS, Mr. FORD, Mr. MICA, Mr. McCOTTER, and Mr. ENGEL) introduced the following bill; which was referred to the Committee on the Judiciary

---

## A BILL

To amend title 28, United States Code, to clarify that persons may bring private rights of actions against foreign states for certain terrorist acts, and for other purposes.

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. CLARIFICATION OF PRIVATE RIGHT OF ACTION**

4 **AGAINST TERRORIST STATES; DAMAGES.**

5 (a) RIGHT OF ACTION.—Section 1605 of title 28,  
6 United States Code, is amended—

7 (1) in subsection (f), in the first sentence, by  
8 inserting “or (h)” after “subsection (a)(7)”; and

9 (2) by adding at the end the following:

1       “(h) CERTAIN ACTIONS AGAINST FOREIGN STATES  
2 OR OFFICIALS, EMPLOYEES, OR AGENTS OF FOREIGN  
3 STATES.—

4               “(1) CAUSE OF ACTION.—

5                       “(A) CAUSE OF ACTION.—A foreign state  
6 designated as a state sponsor of terrorism  
7 under section 6(j) of the Export Administration  
8 Act of 1979 (50 U.S.C. App. 2405(j)) or sec-  
9 tion 620A of the Foreign Assistance Act of  
10 1961 (22 U.S.C. 2371), or an official, em-  
11 ployee, or agent of such a foreign state, shall be  
12 liable to a national of the United States (as  
13 that term is defined in section 101(a)(22) of  
14 the Immigration and Nationality Act) or the  
15 national’s legal representative for personal in-  
16 jury or death caused by acts of that foreign  
17 state, or by that official, employee, or agent  
18 while acting within the scope of his or her of-  
19 fice, employment, or agency, for which the  
20 courts of the United States may maintain juris-  
21 diction under subsection (a)(7) for money dam-  
22 ages.

23                       “(B) DISCOVERY.—The provisions of sub-  
24 section (g) apply to actions brought under sub-  
25 paragraph (A).

1           “(C) NATIONALITY OF CLAIMANT.—No ac-  
2           tion shall be maintained under subparagraph  
3           (A) arising from acts of a foreign state or an  
4           official, employee, or agent of a foreign state if  
5           neither the claimant nor the victim was a na-  
6           tional of the United States (as that term is de-  
7           fined in section 101(a)(22) of the Immigration  
8           and Nationality Act) when such acts occurred.

9           “(2) DAMAGES.—In an action brought under  
10          paragraph (1) against a foreign state or an official,  
11          employee, or agent of a foreign state, the foreign  
12          state, official, employee, or agent, as the case may  
13          be, may be held liable for money damages in such  
14          action, which may include economic damages,  
15          solatium, damages for pain and suffering, and, not-  
16          withstanding section 1606, punitive damages. In all  
17          actions brought under paragraph (1), a foreign state  
18          shall be vicariously liable for the actions of its offi-  
19          cials, employees, or agents.

20          “(3) APPEALS.—An appeal in the courts of the  
21          United States in an action brought under paragraph  
22          (1) may be made—

23                 “(A) only from a final decision under sec-  
24                 tion 1291 of this title, and then only if filed

1 with the clerk of the district court within 30  
2 days after the entry of such final decision; and  
3 “(B) in the case of an appeal from an  
4 order denying the immunity of a foreign state,  
5 a political subdivision thereof, or an agency of  
6 instrumentality of a foreign state, only if filed  
7 under section 1292 of this title.”.

8 (b) CONFORMING AMENDMENT.—Section 589 of the  
9 Foreign Operations, Export Financing, and Related Pro-  
10 grams Appropriations Act, 1997, as contained in section  
11 101(a) of Division A of Public Law 104–208 (110 Stat.  
12 3009–172; 28 U.S.C. 1605 note), is repealed.

13 **SEC. 2. PROPERTY SUBJECT TO ATTACHMENT EXECUTION.**

14 Section 1610 of title 28, United States Code, is  
15 amended by adding at the end the following:

16 “(g) PROPERTY INTERESTS IN CERTAIN ACTIONS.—

17 “(1) IN GENERAL.—A property interest of a  
18 foreign state, or agency or instrumentality of a for-  
19 eign state, against which a judgment is entered  
20 under section 1605(a)(7), including a property inter-  
21 est that is a separate juridical entity, is subject to  
22 execution upon that judgment as provided in this  
23 section, regardless of—

1           “(A) the level of economic control over the  
2           property interest by the government of the for-  
3           eign state;

4           “(B) whether the profits of the property  
5           interest go to that government;

6           “(C) the degree to which officials of that  
7           government manage the property interest or  
8           otherwise have a hand in its daily affairs;

9           “(D) whether that government is the real  
10          beneficiary of the conduct of the property inter-  
11          est; or

12          “(E) whether establishing the property in-  
13          terest as a separate entity would entitle the for-  
14          eign state to benefits in United States courts  
15          while avoiding its obligations.

16          “(2) U.S. SOVEREIGN IMMUNITY INAPPLI-  
17          CABLE.—Any property interest of a foreign state, or  
18          agency or instrumentality of a foreign state, to  
19          which paragraph (1) applies shall not be immune  
20          from execution upon a judgment entered under sec-  
21          tion 1605(a)(7) because the property interest is reg-  
22          ulated by the United States Government by reason  
23          of action taken against that foreign state under the  
24          Trading With the Enemy Act or the International  
25          Emergency Economic Powers Act.”.

1 **SEC. 3. APPLICABILITY.**

2 (a) IN GENERAL.—The amendments made by this  
3 Act apply to any claim for which a foreign state is not  
4 immune under section 1605(a)(7) of title 28, United  
5 States Code, arising before, on, or after the date of the  
6 enactment of this Act.

7 (b) PRIOR CAUSES OF ACTION.—In the case of any  
8 action that—

9 (1) was brought in a timely manner but was  
10 dismissed before the enactment of this Act for fail-  
11 ure to state of cause of action, and

12 (2) would be cognizable by reason of the  
13 amendments made by this Act,

14 the 10-year limitation period provided under section  
15 1605(f) of title 28, United States Code, shall be tolled dur-  
16 ing the period beginning on the date on which the action  
17 was first brought and ending 60 days after the date of  
18 the enactment of this Act.

○