

112TH CONGRESS
2D SESSION

H. R. 4086

IN THE SENATE OF THE UNITED STATES

MARCH 20, 2012

Received; read twice and referred to the Committee on the Judiciary

AN ACT

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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. CLARIFICATION OF JURISDICTIONAL IMMUNITY OF**
5 **FOREIGN STATES.**

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

9 “(h) JURISDICTIONAL IMMUNITY FOR CERTAIN ART
10 EXHIBITION ACTIVITIES.—

11 “(1) IN GENERAL.—If—

12 “(A) a work is imported into the United
13 States from any foreign country pursuant to an
14 agreement that provides for the temporary exhi-
15 bition or display of such work entered into be-
16 tween a foreign state that is the owner or cus-
17 todian of such work and the United States or
18 one or more cultural or educational institutions
19 within the United States,

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

1 “(C) the notice thereof has been published
2 in accordance with subsection (a) of Public Law
3 89–259,
4 any activity in the United States of such foreign
5 state, or of any carrier, that is associated with the
6 temporary exhibition or display of such work shall
7 not be considered to be commercial activity by such
8 foreign state for purposes of subsection (a)(3) of
9 this section.

10 “(2) NAZI-ERA CLAIMS.—Paragraph (1) shall
11 not apply in any case in which—

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

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

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

24 “(3) DEFINITIONS.—For purposes of this sub-
25 section—

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

3 “(B) the term ‘covered government’
4 means—

5 “(i) the Nazi government of Germany;

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

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

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

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

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

Passed the House of Representatives March 19,
2012.

Attest:

KAREN L. HAAS,

Clerk.