

## Union Calendar No. 488

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5683

[Report No. 113-650]

To ensure appropriate judicial review of Federal Government actions by amending the prohibition on the exercise of jurisdiction by the United States Court of Federal Claims of certain claims pending in other courts.

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### IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 12, 2014

Mr. DESANTIS (for himself and Mr. CICILLINE) introduced the following bill;  
which was referred to the Committee on the Judiciary

DECEMBER 8, 2014

Committed to the Committee of the Whole House on the State of the Union  
and ordered to be printed

# **A BILL**

To ensure appropriate judicial review of Federal Government actions by amending the prohibition on the exercise of jurisdiction by the United States Court of Federal Claims of certain claims pending in other courts.

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 “Ensuring Access to  
5 Justice for Claims Against the United States Act”.

6 **SEC. 2. JURISDICTION OF UNITED STATES COURT OF FED-**  
7 **ERAL CLAIMS.**

8       (a) AMENDMENTS TO TITLE 28, UNITED STATES  
9 CODE.—

10           (1) IN GENERAL.—Section 1500 of title 28,  
11 United States Code, is amended to read as follows:

12 **“§ 1500. Presumption of stay**

13       “(a) DEFINITIONS.—In this section—

14           “(1) the term ‘court’ means any of the courts  
15 described in section 610; and

16           “(2) the term ‘Court of Federal Claims’ means  
17 the United States Court of Federal Claims.

18       “(b) PRESUMPTION OF STAY.—Except as provided in  
19 subsection (d), if a civil action is pending in, or on appeal  
20 from, the Court of Federal Claims, and the plaintiff or  
21 assignee of the plaintiff also has pending in any other  
22 court a civil action that includes a claim against the  
23 United States or an agency or officer of the United States  
24 arising from substantially the same set of operative facts,  
25 the court presiding over the action that was filed later

1 shall stay the action, in whole or in part, until the action  
2 that was filed first is no longer pending.

3 “(c) DETERMINING FIRST-FILED ACTION.—

4 “(1) APPEALS.—For purposes of subsection  
5 (b), the date of filing for a civil action that is pend-  
6 ing on appeal from the Court of Federal Claims is  
7 the date on which the action was filed in the Court  
8 of Federal Claims.

9 “(2) ACTIONS OR APPEALS FILED ON SAME  
10 DAY.—For purposes of subsection (b), if the actions  
11 described in subsection (b) were filed on the same  
12 day, without regard to the time of day, the action  
13 that is pending in, or on appeal from, the Court of  
14 Federal Claims shall be treated as having been filed  
15 first.

16 “(d) EXCEPTIONS.—The requirement to stay an ac-  
17 tion under subsection (b) shall not apply if—

18 “(1) the parties in each of the actions that in-  
19 clude a claim based on substantially the same set of  
20 operative facts otherwise agree; or

21 “(2) the required stay is not, or ceases to be,  
22 in the interests of justice.”.

23 (2) TECHNICAL AND CONFORMING AMEND-  
24 MENT.—The table of sections for chapter 91 of title  
25 28, United States Code, is amended by striking the

1 item relating to section 1500 and inserting the fol-  
2 lowing:

“1500. Presumption of stay.”.

3 (b) APPLICABILITY.—

4 (1) IN GENERAL.—Section 1500 of title 28,  
5 United States Code, as amended by subsection (a),  
6 shall apply to any action pending on, or filed on or  
7 after, the date of the enactment of this Act, but does  
8 not apply in a case in which the action filed later (as  
9 determined in accordance with such section, as so  
10 amended) is pending (on such date of enactment) in  
11 a court of appeals of the United States or the Su-  
12 preme Court of the United States, or in a case in  
13 which a judgment has been entered as of such date  
14 of enactment but for which the time to file an appeal  
15 has not expired.

16 (2) PREVIOUS JURISDICTIONAL BAR.—Any  
17 claim in an action pending on the date of the enact-  
18 ment of this Act either in a court of appeals of the  
19 United States or the Supreme Court of the United  
20 States, or for which the time to file an appeal has  
21 not expired, shall not be subject to the jurisdictional  
22 bar under section 1500 of title 28, United States  
23 Code, as in effect on the day before the date of the  
24 enactment of this Act.

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