

Public Law 100-640
100th Congress

An Act

To amend the Foreign Sovereign Immunities Act with respect to admiralty jurisdiction.

Nov. 9, 1988
[H.R. 1149]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Maritime
affairs.

SECTION 1. ADMIRALTY SUITS AGAINST FOREIGN STATES.

Section 1605(b) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking all that follows the first semicolon and inserting the following: “and if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit, the service of process of arrest shall be deemed to constitute valid delivery of such notice, but the party bringing the suit shall be liable for any damages sustained by the foreign state as a result of the arrest if the party bringing the suit had actual or constructive knowledge that the vessel or cargo of a foreign state was involved; and”;

(2) in paragraph (2) by striking “subsection (b)(1) of this section” and inserting “paragraph (1) of this subsection”; and

(3) by striking all that follows paragraph (2) and inserting the following:

“(c) Whenever notice is delivered under subsection (b)(1), the suit to enforce a maritime lien shall thereafter proceed and shall be heard and determined according to the principles of law and rules of practice of suits in rem whenever it appears that, had the vessel been privately owned and possessed, a suit in rem might have been maintained. A decree against the foreign state may include costs of the suit and, if the decree is for a money judgment, interest as ordered by the court, except that the court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose. Such value shall be determined as of the time notice is served under subsection (b)(1). Decrees shall be subject to appeal and revision as provided in other cases of admiralty and maritime jurisdiction. Nothing shall preclude the plaintiff in any proper case from seeking relief in personam in the same action brought to enforce a maritime lien as provided in this section.

“(d) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any action brought to foreclose a preferred mortgage, as defined in the Ship Mortgage Act, 1920 (46 U.S.C. 911 and following). Such action shall be brought, heard, and determined in accordance with the provisions of that Act and in accordance with the principles of law and rules of practice of suits in rem, whenever it appears that had the vessel been privately owned and possessed a suit in rem might have been maintained.”.

SEC. 2. ATTACHMENT OR EXECUTION.

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

“(e) The vessels of a foreign State shall not be immune from arrest in rem, interlocutory sale, and execution in actions brought to foreclose a preferred mortgage as provided in section 1605(d).”.

28 USC 1605
note.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to actions commenced on or after the date of the enactment of this Act.

Approved November 9, 1988.

LEGISLATIVE HISTORY—H.R. 1149:

HOUSE REPORTS: No. 100-823 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 8, considered and passed House.
Oct. 21, considered and passed Senate.