

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2057

To amend title 11 of the United States Code with respect to the waiver of sovereign immunity by governmental units.

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IN THE HOUSE OF REPRESENTATIVES

MAY 11, 1993

Mr. BERMAN introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 11 of the United States Code with respect to the waiver of sovereign immunity by governmental units.

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. AMENDMENT.**

4       Section 106 of title 11, United States Code, is  
5       amended to read as follows:

6       **“§ 106. Waiver of sovereign immunity**

7       “(a) Notwithstanding an assertion of sovereign im-  
8       munity, except as provided in subsection (d)—

9               “(1) all provisions of this title shall apply to  
10       governmental units;

1           “(2) the court may hear and determine any  
2           issue arising with respect to the application of such  
3           provisions to governmental units; and

4           “(3) the court may issue and enforce any order,  
5           process, or judgment against a governmental unit,  
6           including an order or judgment awarding a money  
7           recovery, to the same extent as against any other  
8           entity.

9           “(b) A governmental unit is deemed to have waived  
10          sovereign immunity with respect to a claim against such  
11          governmental unit that is property of the estate and that  
12          arose out of the same transaction or occurrence out of  
13          which the claim of such governmental unit arose.

14          “(c) Notwithstanding any assertion of sovereign im-  
15          munity by a governmental unit, there shall be offset  
16          against a claim or interest of a governmental unit any  
17          claim against such governmental unit that is property of  
18          the estate.

19          “(d) Except as provided in subsections (b) and (c),  
20          a governmental unit may assert sovereign immunity with  
21          respect to a claim of the estate against such governmental  
22          unit only if such claim—

23                 “(1) is not a tax claim or related to a tax claim  
24                 subject to determination under section 505; and

1           “(2)(A) is a claim of the debtor against such  
2       governmental unit that arose before the commence-  
3       ment of the case and became property of the estate  
4       only under paragraph (1) or (2) of section 541(a);  
5       or

6           “(B) arises under nonbankruptcy law after the  
7       commencement of the case from the operation of the  
8       business of the debtor.”.

9       **SEC. 2. APPLICATION OF AMENDMENT.**

10       The amendment made by section 1 shall apply with  
11       respect to cases commenced under title 11 of the United  
12       States Code before, on, and after the date of the enact-  
13       ment of this Act.

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