

114TH CONGRESS
2^D SESSION

H. R. 6477

IN THE SENATE OF THE UNITED STATES

DECEMBER 8, 2016

Received

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 state 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 sub-
22 section (a) of Public Law 89–259 (22 U.S.C.
23 2459(a)), that such work is of cultural signifi-
24 cance and the temporary exhibition or display
25 of such work is in the national interest; and

1 “(C) the notice thereof has been published
2 in accordance with subsection (a) of Public Law
3 89–259 (22 U.S.C. 2459(a)),
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).

9 “(2) EXCEPTIONS.—

10 “(A) NAZI-ERA CLAIMS.—Paragraph (1)
11 shall not apply in any case asserting jurisdic-
12 tion under subsection (a)(3) in which rights in
13 property taken in violation of international law
14 are in issue within the meaning of that sub-
15 section and—

16 “(i) the property at issue is the work
17 described in paragraph (1);

18 “(ii) the action is based upon a claim
19 that such work was taken in connection
20 with the acts of a covered government dur-
21 ing the covered period;

22 “(iii) the court determines that the
23 activity associated with the exhibition or
24 display is commercial activity, as that term
25 is defined in section 1603(d); and

1 “(iv) a determination under clause
2 (iii) is necessary for the court to exercise
3 jurisdiction over the foreign state under
4 subsection (a)(3).

5 “(B) OTHER CULTURALLY SIGNIFICANT
6 WORKS.—In addition to cases exempted under
7 subparagraph (A), paragraph (1) shall not
8 apply in any case asserting jurisdiction under
9 subsection (a)(3) in which rights in property
10 taken in violation of international law are in
11 issue within the meaning of that subsection
12 and—

13 “(i) the property at issue is the work
14 described in paragraph (1);

15 “(ii) the action is based upon a claim
16 that such work was taken in connection
17 with the acts of a foreign government as
18 part of a systematic campaign of coercive
19 confiscation or misappropriation of works
20 from members of a targeted and vulnerable
21 group;

22 “(iii) the taking occurred after 1900;

23 “(iv) the court determines that the ac-
24 tivity associated with the exhibition or dis-

1 play is commercial activity, as that term is
2 defined in section 1603(d); and

3 “(v) a determination under clause (iv)
4 is necessary for the court to exercise juris-
5 diction over the foreign state under sub-
6 section (a)(3).

7 “(3) DEFINITIONS.—For purposes of this sub-
8 section—

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

11 “(B) the term ‘covered government’
12 means—

13 “(i) the Government of Germany dur-
14 ing the covered period;

15 “(ii) any government in any area in
16 Europe that was occupied by the military
17 forces of the Government of Germany dur-
18 ing the covered period;

19 “(iii) any government in Europe that
20 was established with the assistance or co-
21 operation of the Government of Germany
22 during the covered period; and

23 “(iv) any government in Europe that
24 was an ally of the Government of Germany
25 during the covered period; and

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

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

7 **SEC. 3. NOTIFICATION.**

8 The Secretary of State shall ensure that foreign
9 states that apply for immunity under Public Law 89–259
10 (22 U.S.C. 2459) are appropriately notified of the text of
11 this Act.

 Passed the House of Representatives December 8,
2016.

Attest:

KAREN L. HAAS,

Clerk.