

114TH CONGRESS  
1ST SESSION

# H. R. 889

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IN THE SENATE OF THE UNITED STATES

JUNE 10, 2015

Received

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

14               “(A) the property at issue is the work de-  
15               scribed in paragraph (1);

16               “(B) the action is based upon a claim that  
17               such work was taken in connection with the  
18               acts of a covered government during the cov-  
19               ered period;

20               “(C) the court determines that the activity  
21               associated with the exhibition or display is com-  
22               mercial activity, as that term is defined in sec-  
23               tion 1603(d); and

24               “(D) a determination under subparagraph  
25               (C) is necessary for the court to exercise juris-

1           diction over the foreign state under subsection  
2           (a)(3).

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

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

7                   “(B) the term ‘covered government’  
8                   means—

9                           “(i) the Government of Germany dur-  
10                           ing the covered period;

11                           “(ii) any government in any area in  
12                           Europe that was occupied by the military  
13                           forces of the Government of Germany dur-  
14                           ing the covered period;

15                           “(iii) any government in Europe that  
16                           was established with the assistance or co-  
17                           operation of the Government of Germany  
18                           during the covered period; and

19                           “(iv) any government in Europe that  
20                           was an ally of the Government of Germany  
21                           during the covered period; and

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

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

Passed the House of Representatives June 9, 2015.

Attest:

KAREN L. HAAS,

*Clerk.*