

## Union Calendar No.

114<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 889

[Report No. 114-]

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.

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### IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2015

Mr. CHABOT (for himself, Mr. COHEN, Mr. GOODLATTE, and Mr. CONYERS) introduced the following bill; which was referred to the Committee on the Judiciary

APRIL --, 2015

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

# **A BILL**

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,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Foreign Cultural Ex-  
5 change Jurisdictional Immunity Clarification Act”.

6 **SEC. 2. CLARIFICATION OF JURISDICTIONAL IMMUNITY OF**  
7 **FOREIGN STATES.**

8       (a) IN GENERAL.—Section 1605 of title 28, United  
9 States Code, is amended by adding at the end the fol-  
10 lowing:

11       “(h) JURISDICTIONAL IMMUNITY FOR CERTAIN ART  
12 EXHIBITION ACTIVITIES.—

13               “(1) IN GENERAL.—If—

14                       “(A) a work is imported into the United  
15 States from any foreign country pursuant to an  
16 agreement that provides for the temporary exhi-  
17 bition or display of such work entered into be-  
18 tween a foreign state that is the owner or cus-  
19 todian of such work and the United States or  
20 one or more cultural or educational institutions  
21 within the United States,

22                       “(B) the President, or the President’s des-  
23 ignee, has determined, in accordance with sub-  
24 section (a) of Public Law 89–259 (22 U.S.C.  
25 2459(a)), that such work is of cultural signifi-

1 cance and the temporary exhibition or display  
2 of such work is in the national interest, and

3 “(C) the notice thereof has been published  
4 in accordance with subsection (a) of Public Law  
5 89–259 (22 U.S.C. 2459(a)),

6 any activity in the United States of such foreign  
7 state, or of any carrier, that is associated with the  
8 temporary exhibition or display of such work shall  
9 not be considered to be commercial activity by such  
10 foreign state for purposes of subsection (a)(3).

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

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

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

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

1           “(D) a determination under subparagraph  
2           (C) is necessary for the court to exercise juris-  
3           diction over the foreign state under subsection  
4           (a)(3).

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

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

9           “(B) the term ‘covered government’  
10          means—

11           “(i) the Government of Germany dur-  
12          ing the covered period;

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

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

21           “(iv) any government in Europe that  
22          was an ally of the Government of Germany  
23          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.