

112TH CONGRESS
2D SESSION

H. R. 4070

To clarify certain provisions relating to the interests of Iran in certain assets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2012

Mr. TURNER of New York introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Financial Services and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To clarify certain provisions relating to the interests of Iran in certain assets, and for other purposes.

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. INTERESTS IN FINANCIAL ASSETS OF IRAN.**

4 (a) INTERESTS IN BLOCKED ASSETS.—Notwith-
5 standing any other provision of law, and preempting any
6 inconsistent provision of State law, the property interest
7 of Iran in a blocked asset shall include an interest in prop-
8 erty of any nature whatsoever, direct or indirect, including
9 any direct or indirect interest in securities or other finan-

1 cial assets immobilized or in any other manner held in
2 book entry form and credited to a securities account in
3 the United States and the proceeds thereof, or in any
4 funds transfers held in a United States financial institu-
5 tion. The property interest of Iran in securities or other
6 financial assets immobilized or in any other manner held
7 in book entry form and credited to a securities account
8 in the United States and proceeds thereof shall be deemed
9 to exist at every tier of securities intermediary necessary
10 to hold an interest in any such securities or other financial
11 assets. The property interest of Iran in a funds transfer
12 shall exist at any intermediary bank necessary to complete
13 such funds transfer.

14 (b) PROPERTY IN THE UNITED STATES OF IRAN.—
15 Notwithstanding any other provision of law, and pre-
16 empting any inconsistent provision of State law, the prop-
17 erty, including any interest in the property, of Iran shall
18 be deemed to be property in the United States of Iran
19 if—

20 (1) that property is an interest, held directly or
21 indirectly for the benefit of Iran or for the benefit
22 of any securities intermediary that directly or indi-
23 rectly holds the interest for the benefit of Iran, in
24 securities or other financial assets that are rep-
25 resented by certificates or are in other physical form

1 and are immobilized, custodized, or held for safe-
2 keeping or any other reason in the United States; or

3 (2) that property is an interest in securities or
4 other financial assets held in book entry form or oth-
5 erwise, and credited to a securities account in the
6 United States by any securities intermediary directly
7 or indirectly for the benefit of Iran or for the benefit
8 of any other securities intermediary that directly or
9 indirectly holds the interest for the benefit of Iran.

10 (c) DETERMINATION OF WHETHER SECURITIES OR
11 OTHER ASSETS ARE HELD OR CREDITED TO A SECURI-
12 TIES ACCOUNT IN THE UNITED STATES.—For purposes
13 of this section, an interest in securities or other financial
14 assets is held and credited to a securities account in the
15 United States by a securities intermediary if the securities
16 intermediary is located in the United States. A securities
17 intermediary is conclusively presumed to be located in the
18 United States if it is regulated in its capacity as a securi-
19 ties intermediary under the laws of the United States.

20 (d) COMMERCIAL ACTIVITY IN THE UNITED
21 STATES.—Notwithstanding any other provision of law, the
22 ownership by Iran, or its central bank or monetary author-
23 ity, of any property, including the interest in property de-
24 scribed in paragraphs (1) and (2) of subsection (b), or
25 any other interest in property, shall be deemed to be com-

1 mercial activity in the United States and that property,
2 including any interest in that property, shall be deemed
3 not to be held for the central bank's or monetary
4 authority's own account.

5 (e) APPLICABILITY.—This section applies to all at-
6 tachments and proceedings in aid of execution issued or
7 obtained before, on, or after the date of the enactment
8 of this Act with respect to judgments entered against Iran
9 for damages for personal injury or death caused by an
10 act of torture, extrajudicial killing, aircraft sabotage, or
11 hostage-taking, or the provision of material support or re-
12 sources for such an act.

13 (f) DEFINITIONS.—In this section:

14 (1) BLOCKED ASSET.—The term “blocked
15 asset”—

16 (A) means any asset seized or frozen by
17 the United States under section 5(b) of the
18 Trading With the Enemy Act (50 U.S.C. App.
19 5(b)) or under section 202 or 203 of the Inter-
20 national Emergency Economic Powers Act (50
21 U.S.C. 1701 and 1702); and

22 (B) does not include property that—

23 (i) is subject to a license issued by the
24 United States Government for final pay-
25 ment, transfer, or disposition by or to a

1 person subject to the jurisdiction of the
2 United States in connection with a trans-
3 action for which the issuance of the license
4 has been specifically required by a provi-
5 sion of law other than the International
6 Emergency Economic Powers Act (50
7 U.S.C. 1701 et seq.) or the United Nations
8 Participation Act of 1945 (22 U.S.C. 287
9 et seq.); or

10 (ii) is property subject to the Vienna
11 Convention on Diplomatic Relations or the
12 Vienna Convention on Consular Relations,
13 or that enjoys equivalent privileges and im-
14 munities under the laws of the United
15 States, and is being used exclusively for
16 diplomatic or consular purposes.

17 (2) CLEARING CORPORATION.—The term
18 “clearing corporation” means—

19 (A) a clearing agency (as defined in section
20 3(a)(23) of the Securities Exchange Act of
21 1934 (15 U.S.C. 78c(a)(23)));

22 (B) a Federal reserve bank; or

23 (C) any other person that provides clear-
24 ance or settlement services with respect to fi-
25 nancial assets that would require it to register

1 as a clearing agency under the Federal securi-
2 ties laws but for an exclusion or exemption
3 from the registration requirement under section
4 3(a)(23)(B) of the Securities Exchange Act of
5 1934, if its activities as a clearing corporation,
6 including promulgation of rules, are subject to
7 regulation by a Federal or State governmental
8 authority.

9 (3) FINANCIAL ASSET; SECURITY.—The terms
10 “financial asset” and “security” have the meanings
11 given those terms in the Uniform Commercial Code.

12 (4) IRAN.—The term “Iran” means the Govern-
13 ment of Iran, including the central bank or mone-
14 tary authority of that Government and any agency
15 or instrumentality of that Government.

16 (5) PROPERTY SUBJECT TO THE VIENNA CON-
17 VENTION ON DIPLOMATIC RELATIONS OR THE VI-
18 ENNA CONVENTION ON CONSULAR RELATIONS.—The
19 term “property subject to the Vienna Convention on
20 Diplomatic Relations or the Vienna Convention on
21 Consular Relations” means any property the attach-
22 ment in aid of execution or execution of which would
23 result in a violation of an obligation of the United
24 States under the Vienna Convention on Diplomatic
25 Relations, done at Vienna April 18, 1961, or the

1 Convention on Consular Relations, done at Vienna
2 April 24, 1963.

3 (6) SECURITIES INTERMEDIARY.—The term
4 “securities intermediary” means—

5 (A) a clearing corporation; or

6 (B) a person, including a bank or broker,
7 that in the ordinary course of its business
8 maintains securities accounts for others and is
9 acting in that capacity.

10 (7) UNITED STATES.—The terms “United
11 States” includes all territory and waters, continental
12 or insular, subject to the jurisdiction of the United
13 States.

14 **SEC. 2. EXCEPTIONS TO THE IMMUNITY FROM ATTACH-**
15 **MENT OR EXECUTION.**

16 (a) TITLE 28, UNITED STATES CODE.—Section 1610
17 of title 28, United States Code, is amended—

18 (1) in subsection (a)(7), by inserting after “sec-
19 tion 1605A” the following: “or section 1605(a)(7)
20 (as such section was in effect on January 27,
21 2008)”;

22 (2) in subsection (b)—

23 (A) in paragraph (2)—

1 (i) by striking “(5), 1605(b), or
2 1605A” and inserting “(5) or 1605(b”;
3 and

4 (ii) by striking the period at the end
5 and inserting “, or”; and

6 (B) by adding after paragraph (2) the fol-
7 lowing:

8 “(3) the judgment relates to a claim for which
9 the agency or instrumentality is not immune by vir-
10 tue of section 1605A of this chapter or section
11 1605(a)(7) of this chapter (as such section was in
12 effect on January 27, 2008), regardless of whether
13 the property is or was involved in the act upon
14 which the claim is based.”;

15 (3) by amending subsection (c) to read as fol-
16 lows:

17 “(c)(1) No attachment or execution referred to in any
18 of paragraphs (1) through (6) of subsection (a), or in
19 paragraph (1) or (2) of subsection (b), shall be permitted
20 until the court of original jurisdiction has ordered such
21 attachment and execution after having determined that a
22 reasonable period of time has elapsed following the entry
23 of judgment and the giving of any notice required under
24 section 1608(e) of this chapter.

1 “(2) No attachment or execution referred to in para-
2 graph (7) of subsection (a) or paragraph (3) of subsection
3 (b) shall be permitted until the court of original jurisdic-
4 tion has ordered that such attachment and execution may
5 proceed after having determined that a reasonable period
6 of time has elapsed following the entry of judgment and
7 the giving of any notice required under section 1608(e)
8 of this chapter. For purposes of the preceding sentence,
9 substantial compliance with the requirements of section
10 1608(e) shall be deemed to be sufficient service under such
11 section, and the rejection of or refusal to accept delivery
12 of a default judgment served in substantial compliance
13 with such requirements shall not affect the sufficiency of
14 such service. The order of the court under this paragraph
15 need not specify the assets that are to be subject to such
16 attachment or execution.”; and

17 (4) in subsection (g)(1), in the matter pre-
18 ceding subparagraph (A), by inserting after “section
19 1605A” the following: “or section 1605(a)(7) (as
20 such section was in effect on January 27, 2008)”.

21 (b) TERRORISM RISK INSURANCE ACT OF 2002.—
22 Section 201(a) of the Terrorism Risk Insurance Act of
23 2002 (28 U.S.C. 1610 note) is amended by striking “sec-
24 tion 1605(a)(7)” and inserting “section 1605A or

1 1605(a)(7) (as such section was in effect on January 27,
2 2008)”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect as if included in the enact-
5 ment of the National Defense Authorization Act for Fiscal
6 Year 2008 (Public Law 110–181; 122 Stat. 3) and shall
7 apply with respect to—

8 (1) any judgment pursuant to section 1605A of
9 title 28, United States Code, or section 1605(a)(7)
10 of such Code (as such section was in effect on Janu-
11 ary 27, 2008), that is entered before, on, or after
12 the date of the enactment of such Act; and

13 (2) any attachment or other proceedings in aid
14 of execution, or execution, that is issued, obtained,
15 or commenced before, on, or after the date of the en-
16 actment of such Act, upon a judgment described in
17 paragraph (1).

○