

119TH CONGRESS
1ST SESSION

S. 1884

AN ACT

To clarify the Holocaust Expropriated Art Recovery Act of 2016, to appropriately limit the application of defenses based on the passage of time and other non-merits defenses to claims under that Act.

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 “Holocaust Expropri-
3 ated Art Recovery Act of 2025”.

4 **SEC. 2. HOLOCAUST EXPROPRIATED ART RECOVERY ACT**
5 **OF 2016 IMPROVEMENTS.**

6 (a) IN GENERAL.—The Holocaust Expropriated Art
7 Recovery Act of 2016 (22 U.S.C. 1621 note) is amend-
8 ed—

9 (1) in section 2—

10 (A) by redesignating paragraph (8) as
11 paragraph (10);

12 (B) by inserting after paragraph (7) the
13 following:

14 “(8) The intent of this Act is to permit claims
15 to recover Nazi-looted art to be brought, notwith-
16 standing the passage of time since World War II.
17 Some courts have frustrated the intent of this Act
18 by dismissing recovery lawsuits in reliance on de-
19 fenses based on the passage of time, such as laches
20 (for example, *Zuckerman v Metropolitan Museum of*
21 *Art*, 928 F.3d 186 (2d Cir. 2019)) or adverse pos-
22 session, acquisitive prescription, or usucapion (for
23 example, *Cassirer v. Thyssen-Bornemisza Founda-*
24 *tion*, 89 F.4th 1226 (9th Cir. 2024)) or on other
25 non-merits discretionary defenses, such as the act of
26 state doctrine (for example, *Von Saher v Norton*

Simon Museum of Art at Pasadena, 897 F.3d 1141 (9th Cir. 2018)), forum non conveniens, international comity, or prudential exhaustion. In order to effectuate the purpose of the Act to permit claims to recover Nazi-looted art to be resolved on the merits, these defenses must be precluded.

“(9) This Act also is intended to allow claims in accordance with the procedures under this Act for the recovery of artwork or other property lost during the covered period because, or as a result, of Nazi persecution, including by a covered government (as defined in section 1605(h)(3)(B) of title 28, United States Code) or an agent or associate of a covered government, regardless of the nationality or citizenship of the alleged victim, notwithstanding the ‘domestic takings’ rule under *Federal Republic of Germany v. Philipp*, 592 U.S. 169 (2021).”; and

(C) in paragraph (10), as so redesignated, by striking “will yield just and fair resolutions in a more efficient and predictable manner” and inserting “may, in some circumstances, yield just and fair resolutions as well”;

(2) in section 3(2), by inserting “and other non-merits defenses” after “statutes of limitation”;

(3) in section 5—

1 (A) by striking subsection (g);

2 (B) by redesignating subsections (e) and
3 (f) as subsections (h) and (i), respectively;

4 (C) by redesignating subsections (b), (c),
5 and (d) as subsections (c), (d), and (e), respec-
6 tively;

7 (D) by inserting after subsection (a) the
8 following:

9 “(b) RELATION TO FOREIGN STATE IMMUNITIES.—
10 Notwithstanding any other law or prior judicial decision,
11 any civil claim or cause of action covered by subsection
12 (a) shall be deemed to be an action in which rights in vio-
13 lation of international law are in issue for purposes of sec-
14 tion 1605(a)(3) of title 28, United States Code, without
15 regard to the nationality or citizenship of the alleged vic-
16 tim.”;

17 (E) in subsection (d), as so redesignated,
18 in the matter preceding paragraph (1), by strik-
19 ing “subsection (e)” and inserting “subsection
20 (h)”;

21 (F) in subsection (e), as so redesignated—

22 (i) in the matter preceding paragraph
23 (1), by striking “Subsection (a)” and in-
24 serting “Subsections (a), (b), (f), and (g)”;

25 and

1 (ii) in paragraph (2), by striking
 2 “during the period” and all that follows
 3 and inserting “on or after the date of en-
 4 actment of this Act.”; and

5 (G) by inserting after subsection (e), as so
 6 redesignated, the following:

7 “(f) DEFENSES BASED ON PASSAGE OF TIME AND
 8 OTHER NON-MERITS DEFENSES.—With respect to any
 9 claim that is otherwise timely under this Act—

10 “(1) all defenses or substantive doctrines based
 11 on the passage of time, including laches, adverse
 12 possession, acquisitive prescription, and usucapion,
 13 may not be applied with respect to the claim; and

14 “(2) all non-merits discretionary bases for dis-
 15 missal, including the act of state doctrine, inter-
 16 national comity, forum non conveniens, prudential
 17 exhaustion, and similar doctrines unrelated to the
 18 merits, may not be applied with respect to the claim.

19 “(g) NATIONWIDE SERVICE OF PROCESS.—For a
 20 civil action brought under subsection (a) in any State or
 21 Federal court, process may be served in the judicial dis-
 22 trict where the case is brought or any other judicial dis-
 23 trict of the United States where the defendant may be
 24 found, resides, has an agent, or transacts business.”; and

25 (4) by adding at the end the following:

1 **“SEC. 6. SEVERABILITY.**

2 “If any provision of this Act, or the application of
3 a provision of this Act to any person or circumstance, is
4 held invalid, the remainder of this Act, and the application
5 of such provision to other persons and circumstances, shall
6 not be affected thereby.”.

7 (b) APPLICABILITY.—The amendments made by sub-
8 section (a) shall apply with respect to any civil claim or
9 cause of action that is—

10 (1) pending in any court on the date of enact-
11 ment of this Act, including any civil claim or cause
12 of action that is pending on appeal or for which the
13 time to file an appeal has not expired; or

14 (2) filed on or after the date of enactment of
15 this Act.

Passed the Senate December 10, 2025.

Attest:

Secretary.

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