

119TH CONGRESS
1ST SESSION

S. 1884

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.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2025

Mr. CORNYN (for himself, Mr. BLUMENTHAL, Mr. TILLIS, Mr. BOOKER, Mrs. BLACKBURN, Mr. FETTERMAN, Mr. SCHMITT, and Mrs. BRITT) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Holocaust Expropri-
5 ated Art Recovery Act of 2025”.

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

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

6 (1) in section 2—

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

9 (B) by inserting after paragraph (7) the
10 following:

11 “(8) The intent of this Act is to permit claims
12 to recover Nazi-looted art to be brought, notwith-
13 standing the passage of time since World War II.
14 Some courts have frustrated the intent of this Act
15 by dismissing recovery lawsuits in reliance on de-
16 fenses based on the passage of time, such as laches
17 (for example, *Zuckerman v Metropolitan Museum of*
18 *Art*, 928 F.3d 186 (2d Cir. 2019)) or adverse pos-
19 session, acquisitive prescription, or usucapion (for
20 example, *Cassirer v. Thyssen-Bornemisza Founda-*
21 *tion*, 89 F.4th 1226 (9th Cir. 2024)) or on other
22 non-merits discretionary defenses, such as the act of
23 state doctrine (for example, *Von Saher v Norton*
24 *Simon Museum*, 897 F.3d 1141 (9th Cir. 2018)),
25 forum non-conveniens, international comity, or pru-
26 dential exhaustion. In order to effectuate the pur-

pose 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—

(A) by striking subsection (g);

(B) by redesignating subsections (e) and

(f) as subsections (h) and (i), respectively;

1 (C) by redesignating subsections (b), (c),
 2 and (d) as subsections (c), (d), and (e), respec-
 3 tively;

4 (D) by inserting after subsection (a) the
 5 following:

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

13 (E) in subsection (d), as so redesignated,
 14 in the matter preceding paragraph (1), by strik-
 15 ing “subsection (e)” and inserting “subsection
 16 (h)”;

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

18 (i) in the matter preceding paragraph
 19 (1), by striking “Subsection (a)” and in-
 20 serting “Subsections (a), (b), (f), and (g)”;
 21 and

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

1 (G) by inserting after subsection (e), as so
 2 redesignated, the following:

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

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

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

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

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

22 **“SEC. 6. SEVERABILITY.**

23 “If any provision of this Act, or the application of
 24 a provision of this Act to any person or circumstance, is
 25 held invalid, the remainder of this Act, and the application

1 of such provision to other persons and circumstances, shall
2 not be affected thereby.”.

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

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

10 (2) filed on or after the date of enactment of
11 this Act.

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