

# Calendar No. 271

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.

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## 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, Mrs. BRITT, Mr. WELCH, Mr. SCHIFF, Mr. MCCORMICK, Ms. SLOTKIN, Mrs. GILLIBRAND, Mr. MORENO, Mr. GRASSLEY, Mr. CRUZ, Mr. COONS, Mr. DURBIN, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

NOVEMBER 18, 2025

Reported by Mr. GRASSLEY, with amendments

[Omit the part struck through and insert the part printed in *italic*]

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## 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,*

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*

1 Simon Museum *of Art at Pasadena*, 897 F.3d 1141  
 2 (9th Cir. 2018)), forum ~~non-conveniens~~ *non*  
 3 *conveniens*, international comity, or prudential ex-  
 4 haustion. In order to effectuate the purpose of the  
 5 Act to permit claims to recover Nazi-looted art to be  
 6 resolved on the merits, these defenses must be pre-  
 7 cluded.

8 “(9) This Act also is intended to allow claims  
 9 in accordance with the procedures under this Act for  
 10 the recovery of artwork or other property lost during  
 11 the covered period because, or as a result, of Nazi  
 12 persecution, including by a covered government (as  
 13 defined in section 1605(h)(3)(B) of title 28, United  
 14 States Code) or an agent or associate of a covered  
 15 government, regardless of the nationality or citizen-  
 16 ship of the alleged victim, notwithstanding the ‘do-  
 17 mestic takings’ rule under Federal Republic of Ger-  
 18 many v. Philipp, 592 U.S. 169 (2021).”; and

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

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

1 (3) in section 5—

2 (A) by striking subsection (g);

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

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

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

10 “(b) RELATION TO FOREIGN STATE IMMUNITIES.—

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

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

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

23 (i) in the matter preceding paragraph  
24 (1), by striking “Subsection (a)” and in-

1                   serting “Subsections (a), (b), (f), and (g)”;  
2                   and

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

7                   (G) by inserting after subsection (e), as so  
8                   redesignated, the following:

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

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

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

22           “(g) NATIONWIDE SERVICE OF PROCESS.—For a  
23 civil action brought under subsection (a) in any State or  
24 Federal court, process may be served in the judicial dis-  
25 trict where the case is brought or any other judicial dis-

1 triet of the United States where the defendant may be  
 2 found, resides, has an agent, or transacts business.”; and

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

4 **“SEC. 6. SEVERABILITY.**

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

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

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

17 (2) filed on or after the date of enactment of  
 18 this Act.



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