

119TH CONGRESS
1ST SESSION

S. _____

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

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 _____

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 such as
23 the act of state doctrine (for example, *Von Saher v*
24 *Norton Simon Museum*, 897 F.3d 1141 (9th Cir.
25 2018)), forum non-conveniens, international comity,
26 or prudential exhaustion. In order to effectuate the

1 purpose of the Act to permit claims to recover Nazi-
2 looted art to be resolved on the merits, these de-
3 fenses must be precluded.

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

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

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

22 (3) in section 5—

23 (A) by striking subsection (g);

24 (B) by redesignating subsections (e) and
25 (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.