

One Hundred Nineteenth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Saturday,
the third day of January, two thousand and twenty six*

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.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Holocaust Expropriated Art Recovery Act of 2025”.

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

(a) IN GENERAL.—The Holocaust Expropriated Art Recovery Act of 2016 (22 U.S.C. 1621 note) is amended—

(1) in section 2—

(A) by redesignating paragraph (8) as paragraph (10);
(B) by inserting after paragraph (7) the following:

“(8) The intent of this Act is to permit claims to recover Nazi-looted art to be brought, notwithstanding the passage of time since World War II. Some courts have frustrated the intent of this Act by dismissing recovery lawsuits in reliance on defenses based on the passage of time, such as laches (for example, *Zuckerman v Metropolitan Museum of Art*, 928 F.3d 186 (2d Cir. 2019)) or adverse possession, acquisitive prescription, or usucapion (for example, *Cassirer v. Thyssen-Bornemisza Foundation*, 89 F.4th 1226 (9th Cir. 2024)) or on other non-merits discretionary defenses, such as the act of 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—

(A) by striking subsection (g);

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

(C) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

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

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

(E) in subsection (d), as so redesignated, in the matter preceding paragraph (1), by striking “subsection (e)” and inserting “subsection (h)”;

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

(i) in the matter preceding paragraph (1), by striking “Subsection (a)” and inserting “Subsections (a), (b), (f), and (g)”;

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

(G) by inserting after subsection (e), as so redesignated,

the following:

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

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

“(2) all non-merits discretionary bases for dismissal, including the act of state doctrine, international comity, forum non conveniens, prudential exhaustion, and similar doctrines unrelated to the merits, may not be applied with respect to the claim.

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

and

(4) by adding at the end the following:

“SEC. 6. SEVERABILITY.

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

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(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to any civil claim or cause of action that is—

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

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

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*