

114TH CONGRESS  
2D SESSION

# H. R. 6130

To provide the victims of Holocaust-era persecution and their heirs a fair opportunity to recover works of art confiscated or misappropriated by the Nazis.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2016

Mr. GOODLATTE (for himself, Mr. NADLER, Mr. DESANTIS, Mrs. CAROLYN B. MALONEY of New York, Mr. LAMBORN, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. LANCE, and Mr. GRIFFITH) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide the victims of Holocaust-era persecution and their heirs a fair opportunity to recover works of art confiscated or misappropriated by the Nazis.

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 2016”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) It is estimated that the Nazis confiscated or  
2 otherwise misappropriated hundreds of thousands of  
3 works of art and other property throughout Europe  
4 as part of their genocidal campaign against the Jew-  
5 ish people and other persecuted groups. This has  
6 been described as the “greatest displacement of art  
7 in human history”.

8           (2) Following World War II, the United States  
9 and its allies attempted to return the stolen  
10 artworks to their countries of origin. Despite these  
11 efforts, many works of art were never reunited with  
12 their owners. Some of the art has since been discov-  
13 ered in the United States.

14           (3) In 1998, the United States convened a con-  
15 ference with 43 other nations in Washington, DC,  
16 known as the Washington Conference, which pro-  
17 duced Principles on Nazi-Confiscated Art. One of  
18 these principles is that “steps should be taken expe-  
19 ditiously to achieve a just and fair solution” to  
20 claims involving such art that has not been  
21 restituted if the owners or their heirs can be identi-  
22 fied.

23           (4) The same year, Congress enacted the Holo-  
24 caust Victims Redress Act (Public Law 105–158,  
25 112 Stat. 15), which expressed the sense of Con-

1       gress that “all governments should undertake good  
2       faith efforts to facilitate the return of private and  
3       public property, such as works of art, to the rightful  
4       owners in cases where assets were confiscated from  
5       the claimant during the period of Nazi rule and  
6       there is reasonable proof that the claimant is the  
7       rightful owner.”.

8               (5) In 2009, the United States participated in  
9       a Holocaust Era Assets Conference in Prague,  
10      Czech Republic, with 45 other nations. At the con-  
11      clusion of this conference, the participating nations  
12      issued the Terezin Declaration, which reaffirmed the  
13      1998 Washington Conference Principles on Nazi-  
14      Confiscated Art and urged all participants “to en-  
15      sure that their legal systems or alternative processes,  
16      while taking into account the different legal tradi-  
17      tions, facilitate just and fair solutions with regard to  
18      Nazi-confiscated and looted art, and to make certain  
19      that claims to recover such art are resolved expedi-  
20      tiously and based on the facts and merits of the  
21      claims and all the relevant documents submitted by  
22      all parties.”. The Declaration also urged participants  
23      to “consider all relevant issues when applying var-  
24      ious legal provisions that may impede the restitution  
25      of art and cultural property, in order to achieve just

1 and fair solutions, as well as alternative dispute res-  
2 olution, where appropriate under law.”.

3 (6) Victims of Nazi persecution and their heirs  
4 have taken legal action in the United States to re-  
5 cover Nazi-confiscated art. These lawsuits face sig-  
6 nificant procedural obstacles partly due to State  
7 statutes of limitations, which typically bar claims  
8 within some limited number of years from either the  
9 date of the loss or the date that the claim should  
10 have been discovered. In some cases, this means that  
11 the claims expired before World War II even ended.  
12 (See, e.g., *Detroit Institute of Arts v. Ullin*, No. 06–  
13 10333, 2007 WL 1016996 (E.D. Mich. Mar. 31,  
14 2007).) The unique and horrific circumstances of  
15 World War II and the Holocaust make statutes of  
16 limitations especially burdensome to the victims and  
17 their heirs. Those seeking recovery of Nazi-con-  
18 fiscated art must painstakingly piece together their  
19 cases from a fragmentary historical record ravaged  
20 by persecution, war, and genocide. This costly proc-  
21 ess often cannot be done within the time constraints  
22 imposed by existing law.

23 (7) Federal legislation is needed because the  
24 only court that has considered the question held that  
25 the Constitution prohibits States from making ex-

1        ceptions to their statutes of limitations to accommo-  
2        date claims involving the recovery of Nazi-con-  
3        fiscated art. In *Von Saher v. Norton Simon Museum*  
4        of Art, 592 F.3d 954 (9th Cir. 2009), the United  
5        States Court of Appeals for the Ninth Circuit invali-  
6        dated a California law that extended the State stat-  
7        ute of limitations for claims seeking recovery of Hol-  
8        ocaust-era artwork. The Court held that the law was  
9        an unconstitutional infringement of the Federal Gov-  
10       ernment’s exclusive authority over foreign affairs,  
11       which includes the resolution of war-related disputes.  
12       In light of this precedent, the enactment of a Fed-  
13       eral law is necessary to ensure that claims to Nazi-  
14       confiscated art are adjudicated in accordance with  
15       United States policy as expressed in the Washington  
16       Conference Principles on Nazi-Confiscated Art, the  
17       Holocaust Victims Redress Act, and the Terezin  
18       Declaration.

19                (8) While litigation may be used to resolve  
20       claims to recover Nazi-confiscated art, it is the sense  
21       of Congress that the private resolution of claims by  
22       parties involved, on the merits and through the use  
23       of alternative dispute resolution such as mediation  
24       panels established for this purpose with the aid of  
25       experts in provenance research and history, will yield

1 just and fair resolutions in a more efficient and pre-  
2 dictable manner.

3 **SEC. 3. PURPOSES.**

4 The purposes of this Act are the following:

5 (1) To ensure that laws governing claims to  
6 Nazi-confiscated art and other property further  
7 United States policy as set forth in the Washington  
8 Conference Principles on Nazi-Confiscated Art, the  
9 Holocaust Victims Redress Act, and the Terezin  
10 Declaration.

11 (2) To ensure that claims to artwork and other  
12 property stolen or misappropriated by the Nazis are  
13 not unfairly barred by statutes of limitations but are  
14 resolved in a just and fair manner.

15 **SEC. 4. DEFINITIONS.**

16 In this Act:

17 (1) **ACTUAL DISCOVERY.**—The term “actual  
18 discovery” means knowledge.

19 (2) **ARTWORK OR OTHER PROPERTY.**—The  
20 term “artwork or other property” means—

21 (A) pictures, paintings, and drawings;

22 (B) statuary art and sculpture;

23 (C) engravings, prints, lithographs, and  
24 works of graphic art;

1 (D) applied art and original artistic assem-  
2 blages and montages;

3 (E) books, archives, musical objects and  
4 manuscripts (including musical manuscripts  
5 and sheets), and sound, photographic, and cine-  
6 matographic archives and mediums; and

7 (F) sacred and ceremonial objects and  
8 Judaica.

9 (3) COVERED PERIOD.—The term “covered pe-  
10 riod” means the period beginning on January 1,  
11 1933, and ending on December 31, 1945.

12 (4) KNOWLEDGE.—The term “knowledge”  
13 means having actual knowledge of a fact or cir-  
14 cumstance or sufficient information with regard to a  
15 relevant fact or circumstance to amount to actual  
16 knowledge thereof.

17 (5) NAZI PERSECUTION.—The term “Nazi per-  
18 secution” means any persecution of a specific group  
19 of individuals based on Nazi ideology by the Govern-  
20 ment of Germany, its allies or agents, members of  
21 the Nazi Party, or their agents or associates, during  
22 the covered period.

23 **SEC. 5. STATUTE OF LIMITATIONS.**

24 (a) IN GENERAL.—Notwithstanding any other provi-  
25 sion of Federal or State law or any defense at law relating

1 to the passage of time, and except as otherwise provided  
2 in this section, a civil claim or cause of action against a  
3 defendant to recover any artwork or other property that  
4 was lost during the covered period because of Nazi perse-  
5 cution may be commenced not later than 6 years after the  
6 actual discovery by the claimant or the agent of the claim-  
7 ant of—

8           (1) the identity and location of the artwork or  
9           other property; and

10           (2) a possessory interest of the claimant in the  
11           artwork or other property.

12           (b) POSSIBLE MISIDENTIFICATION.—For purposes of  
13 subsection (a)(1), in a case in which the artwork or other  
14 property is one of a group of substantially similar multiple  
15 artworks or other property, actual discovery of the identity  
16 and location of the artwork or other property shall be  
17 deemed to occur on the date on which there are facts suffi-  
18 cient to form a substantial basis to believe that the art-  
19 work or other property is the artwork or other property  
20 that was lost.

21           (c) PREEXISTING CLAIMS.—Except as provided in  
22 subsection (e), a civil claim or cause of action described  
23 in subsection (a) shall be deemed to have been actually  
24 discovered on the date of enactment of this Act if—

25           (1) before the date of enactment of this Act—



1 (A) a claimant had knowledge of the ele-  
2 ments set forth in subsection (a); and

3 (B) the civil claim or cause of action was  
4 barred by a Federal or State statute of limita-  
5 tions; or

6 (2)(A) before the date of enactment of this Act,  
7 a claimant had knowledge of the elements set forth  
8 in subsection (a); and

9 (B) on the date of enactment of this Act, the  
10 civil claim or cause of action was not barred by a  
11 Federal or State statute of limitations.

12 (d) APPLICABILITY.—Subsection (a) shall apply to  
13 any civil claim or cause of action that is—

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

18 (2) filed during the period beginning on the  
19 date of enactment of this Act and ending on Decem-  
20 ber 31, 2026.

21 (e) EXCEPTION.—Subsection (a) shall not apply to  
22 any civil claim or cause of action barred on the day before  
23 the date of enactment of this Act by a Federal or State  
24 statute of limitations if—

1           (1) the claimant or a predecessor-in-interest of  
2           the claimant had knowledge of the elements set forth  
3           in subsection (a) on or after January 1, 1999; and

4           (2) not less than 6 years have passed from the  
5           date such claimant or predecessor-in-interest ac-  
6           quired such knowledge and during which time the  
7           civil claim or cause of action was not barred by a  
8           Federal or State statute of limitations.

9           (f) RULE OF CONSTRUCTION.—Nothing in this Act  
10          shall be construed to create a civil claim or cause of action  
11          under Federal or State law.

12          (g) SUNSET.—This Act shall cease to have effect on  
13          January 1, 2027, except that this Act shall continue to  
14          apply to any civil claim or cause of action described in  
15          subsection (a) that is pending on January 1, 2027. Any  
16          civil claim or cause of action commenced on or after that  
17          date to recover artwork or other property described in this  
18          Act shall be subject to any applicable Federal or State  
19          statute of limitations or any other Federal or State de-  
20          fense at law relating to the passage of time.

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