

Arts and Artifacts Indemnity Act

(P.L. 94-158)

AN ACT To provide indemnities for exhibitions of artistic and humanistic endeavors, and for other purposes.

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

SHORT TITLE

SECTION 1. This Act may be cited as the “Arts and Artifacts Indemnity Act”.

(20 U.S.C. 971) Enacted Dec. 20, 1975, P.L. 94-158, sec. 1, 89 Stat. 844.

FEDERAL COUNCIL

SEC. 2. (a) The Federal Council on the Arts and Humanities (hereinafter in this Act referred to as the “Council”), established under section 9 of the National Foundation on the Arts and the Humanities Act of 1965, is authorized to make the agreements to indemnify against loss or damage such items as may be eligible for such indemnity agreements under section 3—

(1) in accordance with the provisions of this Act; and

(2) on such terms and conditions as the Council shall prescribe, by regulation, in order to achieve the purposes of this Act and, consistent with such purposes, to protect the financial interest of the United States.

(b) (1) For purposes of this Act, the Council shall be an “agency” within the meaning of the appropriate definitions of such term in title 5, United States Code.

(2) For purposes of this Act, the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, the member designated by the Chairman of the Senate Commission of¹ Art and Antiquities and the member designated by the Speaker of the House of Representatives shall not serve as members of the Council.

(20 U.S.C. 971) Enacted Dec. 20, 1975, P.L. 94-158, sec. 2, 89 Stat. 844; amended Dec. 20, 1985, P.L. 99-194, sec. 301, 99 Stat. 1345.

¹So in original. Should be “on”.

ELIGIBLE ITEMS

SEC. 3. (a) The Council may make an indemnity agreement under this Act with respect to—

(1) works of art, including tapestries, paintings, sculpture, folk art, graphics and craft arts;

(2) manuscripts, rare documents, books, and other printed or published materials;

(3) other artifacts or objects; and

(4) photographs, motion pictures, or audio and video tape; which are (A) of educational, cultural, historical, or scientific value, and (B) the exhibition of which is certified by the Secretary of State¹ or his designee as being in the national interest.

(b) (1) An indemnity agreement made under this Act shall cover eligible items while on exhibition in the United States or elsewhere preferably when part of an exchange of exhibitions.

(2) For purposes of this subsection, the term “on exhibition” includes that period of time beginning on the date the eligible items leave the premises of the lender or place designated by the lender and ending on the date such items are returned to the premises of the lender or place designated by the lender.

(20 U.S.C. 972) Enacted Dec. 20, 1975, P.L. 94-158, sec. 3, 89 Stat. 844; amended Dec. 20, 1985, P.L. 99-194, sec. 302, 99 Stat. 1345.

¹The certification authority of the Secretary of State and the Secretary’s designee is now vested in the Director of the United States Information Agency and the Director’s designee. See section 7(a)(10) of Reorganization Act No. 2 of 1977 (91 Stat. 1636) and section 303 of the United States Information Agency Authorization Act, Fiscal Years 1982 and 1983 (Public Law 97-241; 96 Stat. 291).

APPLICATION

SEC. 4. (a) Any person, nonprofit agency, institution, or government desiring to make an indemnity agreement for eligible items under this Act shall make application therefore in accordance with such procedures, in such form, and in such manner as the Council shall, by regulation, prescribe.

(b) An application under subsection (a) shall—

- (1) describe each item to be covered by the agreement (including an estimated value of such item);
- (2) show evidence that the items are eligible under section 3(a); and
- (3) set forth policies, procedures, techniques, and methods with respect to preparation for, and conduct of, exhibition of the items, and any transportation related to such items.

(c) Upon receipt of an application under this section, the Council shall, if such application conforms with the requirements of this Act, approve the application and make an indemnity agreement with the applicant. Upon such approval, the agreement shall constitute a contract between the Council and the applicant pledging the full faith and credit of the United States to pay any amount for which the Council becomes liable under such agreement. The Council, for such purpose, is hereby authorized to pledge the full faith and credit of the United States.

(20 U.S.C. 971) Enacted Dec. 20, 1975, P.L. 94-158, 89 Stat. 845.

INDEMNITY AGREEMENT

SEC. 5. (a) Upon receipt of an application meeting the requirements of subsections (a) and (b) of section 4, the Council shall review the estimated value of the items for which coverage by an indemnity agreement is sought. If the Council agrees with such estimated value, for the purposes of this Act, the Council shall, after approval of the application as provided in subsection (c) of section 4, make an indemnity agreement.

(b) The aggregate of loss or damage covered by indemnity agreements made under this Act shall not exceed \$10,000,000,000 at any one time.

(c) No indemnity agreement for a single exhibition shall cover loss or damage in excess of \$1,200,000,000.

(d) if the estimated value of the items covered by an indemnity agreement for a single exhibition is—

(1) \$2,000,000 or less, then the coverage under this Act shall extend only to loss or damage in excess of the first \$15,000 of loss or damage to items covered;

(2) more than \$2,000,000 but less than \$10,000,000, then coverage under this Act shall extend only to loss or damage in excess of the first \$25,000 of loss or damage to items covered;

(3) not less than \$10,000,000 but less than \$125,000,000, then coverage under this Act shall extend to loss or damage in excess of the first \$50,000 of loss or damage to items covered;

(4) not less than \$125,000,000 but less than \$200,000,000, then coverage under this Act shall extend to loss or damage in excess of the first \$100,000 of loss or damage to items covered;

(5) not less than \$200,000,000 but less than \$300,000,000, then coverage under this Act shall extend to loss or damage in excess of the first \$200,000 of loss or damage to items covered;

(6) not less than \$300,000,000 but less than \$400,000,000, then coverage under this Act shall extend to loss or damage in excess of the first \$300,000 of loss or damage to items covered;

(7) not less than \$400,000,000 but less than \$500,000,000, then coverage under this Act shall extend to loss or damage in excess of the first \$400,000 of loss or damage to items covered.

(8) \$500,000,000 or more, then coverage under this Act shall extend to loss or damage in excess of the first \$500,000 of loss or damage of items covered.

(20 U.S.C. 974) Enacted Dec. 20, 1975, P.L. 94-158, sec. 5, 89 Stat. 845; amended Dec. 4, 1980, P.L. 96-496, secs. 301, 302, 94 Stat. 2593; amended Dec. 20, 1985, P.L. 99-194, sec. 303, 99 Stat. 1345; amended Dec 22, 1987, P.L. 100-202, sec. 101, 101 Stat 13329-213,1329-2219; amended Nov. 5, 1990, P.L. 101-512, sec. 301, 104 Stat. 1976; amended Oct. 1998, P.L. 105-277; amended Sept 25, 2003, P.L. 108-81, sec. 102; amended August 2, 2005, P.L. 109-54, sec. 427.

REGULATIONS

SEC. 6. (a) The Council shall prescribe regulations providing for prompt adjustment of valid claims for losses which are covered by an agreement made pursuant to section 5, including provision for arbitration of issues relating to the dollar value of damages involving less than total loss or destruction of such covered objects.

(b) In the case of a claim of loss with respect to an item which is covered by an agreement made pursuant to section 5, the Council shall certify the validity of the claim and the amount of the loss to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(20 U.S.C. 975) Enacted Dec. 20, 1975, P.L. 94-158, sec. 6, 89 Stat. 845.

AUTHORIZATION AND APPROPRIATIONS

Sec. 7. There are hereby authorized to be appropriated such sums as may be necessary (1) to enable the Council to carry out its functions under this Act, and (2) to pay claims certified pursuant to section 6(b).

(20 U.S.C 976) Enacted Dec 20, 1978, P.L. 94-158, sec. 7, 89 Stat. 846.

REPORT

Sec. 8. The Council shall report annually to the Congress (1) all claims actually paid pursuant to this Act during the preceding fiscal year, (2) pending claims against the Council under this Act as of the close of that fiscal year, and (3) the aggregate face value of contracts entered into by the Council which are outstanding at the close of that fiscal year.

(20 U.S.C 977) Enacted Dec 20, 1975, P.L. 94-158, sec. 9, 89 Stat. 846.