
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1253 Session of
2014

INTRODUCED BY ROBBINS, SCARNATI, PILEGGI, FERLO, ERICKSON,
EICHELBERGER, GORDNER, ALLOWAY, YUDICHAK, HUTCHINSON,
VULAKOVICH AND BAKER, FEBRUARY 19, 2014

REFERRED TO STATE GOVERNMENT, FEBRUARY 19, 2014

AN ACT

1 Amending Title 37 (Historical and Museums) of the Pennsylvania
2 Consolidated Statutes, in general provisions, further
3 providing for definitions; in powers and duties of
4 Pennsylvania Historical and Museum Commission, further
5 providing for specific powers and duties, for personal
6 property and for documents; providing for Commonwealth
7 archival records, for local government archival records and
8 for access to older public records; in historic properties,
9 further providing for powers over certain historic property;
10 and prescribing a penalty.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 103 of Title 37 of the Pennsylvania
14 Consolidated Statutes is amended by adding definitions to read:
15 § 103. Definitions.

16 Subject to additional definitions contained in subsequent
17 provisions of this title which are applicable to specific
18 provisions of this title, the following words and phrases when
19 used in this title shall have the meanings given to them in this
20 section unless the context clearly indicates otherwise:

21 * * *

1 "Archival record." A record having sufficient historical
2 value to warrant permanent preservation by the Commonwealth or a
3 unit of local government.

4 * * *

5 "Record." A record as defined in section 102 of the act of
6 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

7 * * *

8 "State Archives." The Pennsylvania State Archives
9 administered by the Pennsylvania Historical and Museum
10 Commission.

11 "State Archivist." The Director of the Pennsylvania State
12 Archives.

13 Section 2. Section 302(12) of Title 37 is amended to read:
14 § 302. Specific powers and duties.

15 The commission shall have the power and duty to:

16 * * *

17 (12) Annual reports.--Annually transmit to the State
18 Government Committees of the House of Representatives and the
19 Senate a report which includes the following:

20 (i) A summary of the overall condition of museums
21 and historic sites and holdings, including staffing
22 levels and site visits by senior management personnel.

23 [(ii) A report on the operation of the Conservation
24 Center.]

25 (iii) A summary of all publications completed by the
26 commission during the prior year.

27 (iv) A summary of collection deaccessioning
28 activities.

29 (v) A summary of the progress in computerization of
30 collections and inventories.

1 * * *

2 Section 3. Section 304(4) of Title 37 is amended and the
3 section is amended by adding a paragraph to read:

4 § 304. Personal property.

5 The commission shall have the power and duty to:

6 * * *

7 (4) Sale or other disposition.--Exchange or otherwise
8 dispose of material with other museums, archival
9 repositories, historical societies or other reliable
10 organized groups of an educational nature; and sell at public
11 auction historical artifacts, pursuant to its rules and
12 regulations, provided that an historical artifact shall not
13 be sold at public auction unless the commission has
14 determined that the exchange or disposal of that artifact by
15 the other means authorized by this paragraph is not feasible
16 and that the property would not be beneficial to the
17 commission if it were used other than as an artifact. [If the
18 original donor was an individual, the original donor shall be
19 notified, if he can be located, and, if the original donor is
20 deceased, his children shall be notified, if they can be
21 located, and be given an opportunity to reacquire the object,
22 prior to its being offered at auction. If the original donor
23 was not an individual, the original donor shall be notified,
24 if it or its successor can be located, and be given an
25 opportunity to reacquire the object, prior to its being
26 offered at auction. The opportunity of an original donor to
27 reacquire an object shall not be construed to diminish the
28 commission's control over an historical artifact subsequent
29 to its acquisition by the commission and prior to its
30 disposition.] These sales shall be conducted by the

1 Department of General Services. Income produced through these
2 sales shall be paid into the State Treasury through the
3 Department of Revenue and credited to the Historical
4 Preservation Fund and allocated solely for collection
5 acquisition or conservation purposes. No unique object,
6 article, manuscript, document or other material, which is of
7 special significance to the history of this Commonwealth,
8 shall be sold.

9 * * *

10 (6) Abandoned property on loan.--Sell or otherwise
11 dispose of property on loan to the commission in accordance
12 with the following:

13 (i) Notwithstanding the provisions of Article XIII.1
14 of the act of April 9, 1929 (P.L.343, No.176), known as
15 The Fiscal Code, and unless there exists a written
16 agreement to the contrary, any property on loan to the
17 commission for 21 years or more and for which no person
18 has made a claim according to records maintained by the
19 commission shall be considered abandoned if the
20 commission has made reasonable efforts to locate and
21 notify the original lender.

22 (ii) If no valid claim has been made to the property
23 within 60 days after the date of the last notice provided
24 by the commission, the commission shall have the
25 authority to sell or otherwise dispose of the property.

26 Section 4. Section 305 of Title 37 is amended to read:

27 § 305. Documents.

28 The commission shall have the power and duty to:

29 (1) Administer the State Archives.--Oversee and
30 administer the State Archives, which shall be the official

1 State repository for the permanent and historically valuable
2 public records of the Commonwealth.

3 [(1)] (2) Research on Commonwealth documents.--Examine
4 and copy or microfilm any public records within the control
5 of a Commonwealth agency for the purposes of historical
6 research.

7 [(2)] (3) Preservation of public records.--Preserve all
8 public records throughout this Commonwealth and give special
9 attention to the preservation of all records of the
10 Commonwealth not in current use and of historical value;
11 negotiate for the transfer and receipt of public records from
12 any Commonwealth agency or political subdivision; and provide
13 for the disposition of records not needed or useful in the
14 transaction of current or anticipated future work of the
15 Commonwealth under section 524 of the act of April 9, 1929
16 (P.L.177, No.175), known as The Administrative Code of 1929.
17 The commission shall be the legal custodian of any public
18 records transferred to it by any Commonwealth agency or
19 political subdivision. The head of any Commonwealth agency or
20 political subdivision may transfer to the commission public
21 records legally in his custody not needed for the transaction
22 of the business of the office whenever the commission is
23 willing to receive and care for them.

24 [(3)] (4) Management of historical documents.--Collect,
25 classify, preserve and make available for reference all
26 records which may come into its possession with the
27 exceptions indicated by the commission; and examine the
28 condition of the public records, books, pamphlets, documents,
29 manuscripts, archives, maps and papers filed or recorded in
30 any Commonwealth agency or political subdivision. The

1 executive director or any employees authorized by him shall
2 have reasonable access to all public records in this
3 Commonwealth for the purpose of examining them and shall
4 report to the commission on their condition.

5 [(4)] (5) Regulation of Commonwealth records.--Recommend
6 such action be taken by the persons having the care and
7 custody of public records as may be necessary to secure their
8 safety and preservation; cause all laws relating to public
9 records to be enforced; and recommend and enforce uniform
10 standards governing the use of paper, ink and filing
11 procedure for all records and papers of Commonwealth agencies
12 and political subdivisions that are considered of permanent
13 historical importance.

14 [(5)] (6) Certificates relating to public records.--
15 Furnish certificates relating to public records, or copies
16 thereof, upon the payment of fees established by the
17 commission or otherwise fixed by law.

18 [(6)] (7) Land records.--Maintain and preserve:

19 (i) Records of the first titles acquired by the
20 proprietaries and the Commonwealth to all the lands
21 within its boundaries.

22 (ii) Records of all lands and conveyances from the
23 proprietaries and the Commonwealth to the purchasers of
24 the land.

25 (iii) Papers relating to the surveys of this
26 Commonwealth and county lines and the reports of
27 commissioners relating to the boundary lines of this
28 Commonwealth.

29 (iv) Maps and other papers pertaining to the
30 colonial history of this Commonwealth.

1 (v) Contracts, section profile maps and other
2 records relating to public works.

3 (vi) All other relevant records relating to titles
4 of real estate acquired by the Commonwealth.

5 (8) Protection and recovery of Commonwealth records.--
6 Maintain and preserve Commonwealth records in accordance with
7 its powers and duties under section 305.1 (relating to
8 Commonwealth archival records).

9 (9) Protection and recovery of local government
10 records.--Maintain and preserve local government records in
11 accordance with its powers and duties under section 305.2
12 (relating to local government archival records).

13 (10) Access to older public records.--Ensure access to
14 older public records in accordance with its powers and duties
15 under section 305.3 (relating to access to older public
16 records).

17 Section 5. Title 37 is amended by adding sections to read:
18 § 305.1. Commonwealth archival records.

19 (a) Statement of policy.--It is the policy of the
20 Commonwealth that Commonwealth records belong to the citizens of
21 this Commonwealth.

22 (b) Sale or transfer of Commonwealth archival records
23 prohibited.--A person may not sell, transfer or otherwise
24 alienate a Commonwealth archival record unless specifically
25 authorized by law or established by approved record retention
26 procedures of the Commonwealth. In addition to any other penalty
27 provided by law, a person who violates this subsection may be
28 subject to a civil penalty of not more than \$2,500.

29 (c) Commission authority.--The commission as part of its
30 responsibilities for the operation of the State Archives may

1 demand the return of any Commonwealth archival record in the
2 possession of a person, organization, institution or other
3 entity if removal of the record from Commonwealth possession was
4 not authorized by the Commonwealth.

5 (d) Notice and demand of return.--When the executive
6 director, in consultation with the State Archivist, has
7 reasonable grounds to believe that a Commonwealth archival
8 record is in the possession of a person, organization,
9 institution or other entity not authorized by law to possess
10 that record, the commission may issue written notice and demand
11 to that person, organization, institution or other entity for
12 the immediate return of the record. The notice and demand shall
13 be sent by certified or registered mail, return receipt
14 requested. The notice and demand shall identify the Commonwealth
15 archival record claimed with reasonable specificity. Upon
16 receipt of the notice and demand, the person, organization,
17 institution or other entity in the possession of the
18 Commonwealth archival record shall not destroy, alter, transfer,
19 convey or otherwise alienate the record unless authorized in
20 writing by the executive director or by an order issued by a
21 court of competent jurisdiction.

22 (e) Petition.--If the person, organization, institution or
23 other entity in possession of the Commonwealth archival record
24 refuses or fails to deliver the record on demand, the commission
25 may petition Commonwealth Court for recovery of the record.

26 (f) Seizure of Commonwealth archival records.--At any time
27 after or contemporaneous with the filing of a petition under
28 subsection (e), the commission may petition the court to have
29 the record seized if there are reasonable grounds to believe the
30 record is in danger of being destroyed, mutilated, altered,

1 secreted, sold or otherwise removed from the unauthorized
2 possession of a person, organization, institution or other
3 entity. The order of seizure shall issue with notice to the
4 respondent upon seizure and without the posting of any bond or
5 other security by the petitioner.

6 (g) Presumption.--In any proceeding pursuant to subsection
7 (e), there is a rebuttable presumption that Commonwealth
8 archival records that were once in the custody of the
9 Commonwealth were not lawfully alienated from that custody.

10 § 305.2. Local government archival records.

11 (a) General rule.--If a local government agency has
12 reasonable grounds to believe that a local government archival
13 record is in the possession of a person, organization,
14 institution or other entity not authorized by the local
15 government agency to possess that record, it may request the
16 commission to act on its behalf pursuant to the procedures
17 specified in section 305.1 (relating to Commonwealth archival
18 records) or may undertake on its own behalf the same procedure
19 available to the commission under section 305.1.

20 (b) Preservation of record status.--Upon receipt of the
21 notice and demand from the commission or a local government
22 agency issued pursuant to this section, the person,
23 organization, institution or other entity in the possession of
24 the local archival record claimed to belong to the local
25 government agency may not destroy, alter, transfer, convey or
26 otherwise alienate the record unless authorized by the local
27 government agency or by an order issued by a court of competent
28 jurisdiction.

29 (c) Commission action.--If requested by a local government
30 agency to act under subsection (a), the commission may demand

1 return of a local archival record in the private possession of a
2 person, organization, institution or other entity if removal of
3 the record from government possession was not authorized by the
4 local government agency.

5 § 305.3. Access to older public records.

6 (a) Access.--Any provision of law that exempts from public
7 disclosure any item in the custody of the State Archives shall
8 not apply to that item 75 years after the item was created,
9 irrespective of:

10 (1) The origin of the item.

11 (2) The manner in which it was deposited with the State
12 Archives.

13 (3) Any other condition or circumstance at the time the
14 item was deposited.

15 (b) Applicability.--Subsection (a) shall apply to any item
16 currently in the custody of the State Archives and any item
17 deposited in the State Archives after the effective date of this
18 section.

19 (c) Notification to depositors.--The State Archives shall
20 notify any party who deposits any item in the State Archives
21 after the effective date of this section of the provisions of
22 subsection (a).

23 (d) Public notice.--The commission's Internet website shall
24 include a public notice stating that on or after January 1,
25 2015, all items 75 years of age or older that are on deposit in
26 the State Archives shall be accessible to the public.

27 (e) Construction.--If the provisions of this section
28 conflict with any State law limiting disclosure of vital
29 statistics or sealed records or with Federal law, the provisions
30 of this section shall not apply.

1 Section 6. Section 702(7), (16), (26), (37), (39), (48) and
2 (52) of Title 37 are amended to read:

3 § 702. Powers over certain historic property.

4 In addition to all other powers vested in the commission by
5 this title or other statute, the commission shall exercise all
6 powers conferred on it by law with respect to the historic
7 properties known as:

8 * * *

9 [(7) Cashiers House.]

10 * * *

11 [(16) Fort Augusta.]

12 * * *

13 [(26) John Brown House.]

14 * * *

15 [(37) Old Brown's Mill School.]

16 * * *

17 [(39) Old Custom House.]

18 * * *

19 [(48) Pottsgrove Mansion.]

20 * * *

21 [(52) Sodom School House.]

22 * * *

23 Section 7. This act shall take effect in 60 days.