

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 228

PRINTER NO. 197

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

January 31, 2023

PRIME SPONSOR

Senator Phillips-Hill

DESCRIPTION

Senate Bill 228 establishes the Museum Unclaimed Loaned Property Act to provide rules for the management, handling and disposition of property loaned to museums.

The legislation requires a museum to keep records of property that it is loaned. It requires the records to include: the name, address and phone number of the lender; a description of the loaned property; and the beginning and expiration date of the loan. It also requires a museum to provide the lender with a signed receipt of the loan agreement, inform the lender of the existence of this act and provide the lender a copy of the act upon request.

The legislation requires the lender of property to a museum to notify the museum in writing of any change to the lender's address or phone number; the name, address and telephone number of a successor or a designated agent; and any change in ownership of the loaned property. It also requires the successor of a lender to document passage of ownership rights of loaned property in the custody of the museum.

The legislation provides that a museum cannot be prejudiced for failing to deal with the true owner of loaned property unless there is evidence of bad faith or gross negligence. It also provides that a museum is not liable for its refusal to surrender loaned property where the ownership is disputed except in reliance upon a court order or judgment.

The legislation allows a museum to terminate a loan for unclaimed property after making a good faith search for the identity and last known address of the lender and to provide notice to the lender by restricted certified mail. If the notice cannot be sent by mail or it is not received by the lender, it requires a museum to publish notice in a publication of general circulation in the county of the last known address of the lender and the county in which the museum is located at least two times, 60 days apart.

The legislation requires a museum to return loaned property to a lender within 90 days of receiving a written claim of ownership. It provides for the lender to advise the museum as to the disposition of the loaned property or how it is to be returned. It also provides that any costs incurred returning the property are the responsibility

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

of the lender unless the museum and lender have agreed upon alternative arrangements.

The legislation provides that a museum acquires the title to unclaimed loaned property 90 days after providing notice. It provides that a museum that acquires title to loaned property as set forth in the act passes good title to another when transferring the property. The legislation provides that a lender and a museum may bind themselves to different loan provisions by written contract.

The legislation provides that property on loan to a museum cannot escheat to the Commonwealth. It provides that the act does not apply to property in possession of a museum under the Federal Native American Graves Protection and Repatriation Act or to stolen property.

The legislation provides that a museum is entitled to a lien for expenses for the reasonable care of unclaimed property in its possession after the expiration of the loan. It provides that a museum may apply conservation and protective measures to protect the loaned property or the health and safety of the public and museum staff if the property is a hazard. It also provides that a museum is not liable for injury or loss of the loaned property for which conservation and protective measures were taken, if the museum acted in a reasonable manner.

The legislation is scheduled to take effect in 60 days.

FISCAL IMPACT:

The enactment of Senate Bill 228 will have no fiscal impact on Commonwealth funds. The legislation implements industry best practices for Pennsylvania's museums and historic sites to follow when managing, handling and disposing of loaned property. The Pennsylvania Historical Museum Commission believes the implementation of these best practices will create administrative efficiencies and reduce the potential for legal fees for Pennsylvania's museums.