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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

No. **822** Session of  
2021

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INTRODUCED BY PHILLIPS-HILL, JULY 20, 2021

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REFERRED TO STATE GOVERNMENT, JULY 20, 2021

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AN ACT

1 Providing for museum unclaimed loaned property.

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18 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Short title.

3 This act shall be known and may be cited as the Museum  
4 Unclaimed Loaned Property Act.

5 Section 2. Legislative findings.

6 The General Assembly finds and declares the following:

7 (1) The residents of this Commonwealth have an interest  
8 in the growth and maintenance of museum collections and in  
9 the preservation and protection of unclaimed loaned property  
10 of artistic, historic, cultural or scientific value left in  
11 the custody of museums within this Commonwealth.

12 (2) Loans of property of artistic, historic, cultural or  
13 scientific value are made to museums to further educational  
14 purposes.

15 (3) When lenders of property for museums fail to stay in  
16 contact, museums must routinely store and care for the loaned  
17 property long after the loan periods have expired or should  
18 reasonably be deemed expired.

19 (4) Nevertheless, museums have limited rights to the use  
20 and treatment of unclaimed loaned property, all the while  
21 bearing substantial costs related to the storage, record  
22 keeping, climate control, security, periodic inspection,  
23 insurance, general overhead and conservation associated with  
24 the unclaimed loaned property.

25 (5) It is in the public's interest to:

26 (i) Encourage museums and the lenders of property  
27 for museums to use due diligence in monitoring the loaned  
28 property.

29 (ii) Allocate fair responsibilities between museums  
30 and the lenders of property for museums.

1 (iii) Resolve expeditiously the issue of title of  
2 unclaimed loaned property left in the custody of museums.

3 Section 3. Purpose of act.

4 The purpose of this act is to establish uniform rules to  
5 govern the disposition of museum unclaimed loaned property.

6 Section 4. Definitions.

7 The following words and phrases when used in this act shall  
8 have the meanings given to them in this section unless the  
9 context clearly indicates otherwise:

10 "Claimant." An individual, corporation, partnership, trust,  
11 estate or similar organization that files notice of intent to  
12 preserve an interest in loaned property in the custody of a  
13 museum as provided in section 9(b).

14 "Lender." An individual, corporation, partnership, trust,  
15 estate or similar organization whose name appears on the records  
16 of a museum as the person legally entitled to control loaned  
17 property in the custody of the museum. The term includes a  
18 successor of an original lender.

19 "Loan." A transaction between a lender and a museum  
20 regarding property of the lender in which the museum maintains  
21 custody of the property.

22 "Loaned property." Property that is in the possession of a  
23 museum, accompanied by evidence that the lender of the property  
24 intended to retain title to the property and return to take  
25 physical possession of the property in the future.

26 "Museum." As follows:

27 (1) A public or private nonprofit agency or institution  
28 that is:

29 (i) located in this Commonwealth;

30 (ii) organized on a permanent basis for educational

1 or aesthetic purposes; and

2 (iii) owns or utilizes tangible objects, cares for  
3 tangible objects and exhibits tangible objects to the  
4 public on a regular basis.

5 (2) The term includes a historical society, park,  
6 historic site, historic monument, archive or library.

7 "Museum records." Documents that are created or held by a  
8 museum in the regular course of business of the museum.

9 "Property." A tangible or digital object that is in the  
10 custody of a museum and that has intrinsic historical, artistic,  
11 scientific or cultural value.

12 "Restricted certified mail." Certified mail that carries on  
13 its face, in a conspicuous place where it will not be  
14 obliterated, the endorsement "deliver to addressee only" and for  
15 which the post office provides the mailer with a return receipt  
16 showing the date of delivery, the place of delivery and the  
17 person to whom delivered.

18 "Unclaimed loaned property." Property:

19 (1) that is on loan to a museum; and

20 (2) whose original lender, or any person acting  
21 legitimately on behalf of the lender, has not contacted the  
22 museum for at least 20 years from the beginning date of the  
23 loan of the property, if the loan of the property was for an  
24 indefinite or undetermined period or for at least five years  
25 after the date upon which the loan of the property for the  
26 definite period expired.

27 Section 5. Museum obligations to lenders.

28 (a) Record keeping for new loaned property.--For property  
29 loaned to a museum on or after the effective date of this  
30 section, the museum shall do all of the following at the time of

1 the loan:

2 (1) Make and retain a written record containing at least  
3 all of the following:

4 (i) The name, address and telephone number of the  
5 lender.

6 (ii) A description of the loaned property in  
7 sufficient detail for ready identification.

8 (iii) The beginning date of the loan.

9 (iv) The expiration date of the loan.

10 (2) Provide the lender with a signed receipt or loan  
11 agreement containing at least the record specified in  
12 paragraph (1).

13 (3) Inform the lender of the existence of this act and  
14 provide the lender with a copy of this act upon request of  
15 the lender.

16 (b) Record keeping for existing loaned property.--Regardless  
17 of the date of the loan of property to a museum, the museum  
18 shall do all of the following:

19 (1) Update the records of the museum if:

20 (i) a lender informs the museum of a change of  
21 address or change in ownership of the loaned property; or

22 (ii) the lender and museum negotiate a change in the  
23 duration of the loan.

24 (2) Inform the lender of the existence of this act when  
25 renewing or updating the records of an existing loan and  
26 provide the lender with a copy of this act upon request of  
27 the lender.

28 Section 6. Lender obligations to museums.

29 (a) Required notices.--Regardless of the date of the loan of  
30 property in the custody of a museum, a lender shall promptly

1 notify the museum in writing of the following:

2 (1) A change of the address or telephone number of the  
3 lender.

4 (2) The name, address and telephone number of the  
5 successor of the lender.

6 (3) The name, address and telephone number of the  
7 designated agent of the owner of the loaned property.

8 (4) A change of the address or telephone number of the  
9 designated agent of the owner of the loaned property.

10 (5) A change in ownership of the loaned property and the  
11 name, address and telephone number of the new owner of the  
12 loaned property.

13 (b) Documentation establishing ownership.--A successor of a  
14 lender shall document passage of rights of control to the loaned  
15 property in the custody of the museum.

16 Section 7. Liability.

17 (a) Prejudice.--Unless there is evidence of bad faith or  
18 gross negligence, a museum shall not be prejudiced by reason of  
19 any failure to deal with the true owner of loaned property.

20 (b) Surrender of loaned property.--In a case of disputed  
21 ownership of loaned property, a museum shall not be held liable  
22 for its refusal to surrender loaned property in its possession  
23 except in reliance upon a court order or judgment.

24 Section 8. Termination of loans for unclaimed loaned property.

25 (a) Authorization.--A museum may terminate a loan for  
26 unclaimed loaned property in its possession in accordance with  
27 this section.

28 (b) Search.--A museum shall make a good faith and reasonable  
29 search for the identity and last known address of the lender  
30 from the museum records and other records reasonably available

1 to the museum staff.

2 (c) Notice.--

3 (1) Following a search under subsection (b):

4 (i) If the museum identifies the lender and the  
5 lender's last known address, the museum shall give actual  
6 notice to the lender that the loan is terminated in  
7 accordance with paragraph (2).

8 (ii) If the identity or the last known address of  
9 the lender remains unknown, the museum shall give notice  
10 by publication in accordance with paragraph (3).

11 (2) Actual notice of termination by a museum of a loan  
12 for unclaimed loaned property shall be provided by a letter  
13 to the lender, which shall be sent by restricted certified  
14 mail to the last known address of the lender and which shall  
15 include the following information:

16 (i) The date of notice of termination.

17 (ii) The name of the lender.

18 (iii) A description of the loaned property in  
19 sufficient detail for ready identification.

20 (iv) The approximate initiating date of the loan and  
21 termination date, if applicable and known.

22 (v) The name and address of the designated museum  
23 official to be contacted regarding the loan.

24 (vi) A statement that within 90 days of the date of  
25 the notice of termination, the lender is required to  
26 remove the loaned property from the museum or contact the  
27 designated museum official to preserve the lender's  
28 interests in the loaned property and that failure to do  
29 so will result in the loss of all rights in the loaned  
30 property in accordance with section 10.

1           (3) Notice by publication of termination by a museum of  
2 a loan for unclaimed loaned property shall be provided as  
3 follows:

4           (i) This paragraph only applies if:

5                 (A) a search under subsection (b) is  
6 unsuccessful and the museum is unable to send actual  
7 notice in accordance with paragraph (2); or

8                 (B) a signed return receipt of a notice sent by  
9 restricted certified mail under paragraph (2) is not  
10 received by the museum within 30 days after the  
11 notice was mailed.

12           (ii) The museum shall publish the notice of  
13 termination, which includes all the information that is  
14 specified under paragraph (2) and available to the  
15 museum, in a publication of general circulation in the  
16 county of the last known address of the lender, if known,  
17 and the county in which the museum is located. The  
18 following apply:

19                 (A) The notice shall be published at least twice  
20 and at least 60 days apart.

21                 (B) If the loan of property was made to a branch  
22 of the museum, the museum shall be deemed to be  
23 located in the county in which the branch is located.

24 Section 9. Return or disposition of unclaimed loaned property.

25           (a) Written claim by lender.--If a museum receives a written  
26 claim of ownership for loaned property for which notice was  
27 provided under section 8(c)(2) or (3), the museum shall return  
28 the loaned property to the lender or carry out the disposition  
29 of the loaned property as the lender requests, not later than 90  
30 days after receipt of the written claim of ownership. The

1 following apply:

2 (1) The lender shall advise the museum in writing as to  
3 the disposition of the loaned property or how the loaned  
4 property is to be returned to the lender.

5 (2) Any costs incurred as a result of returning the  
6 loaned property or the disposition of the loaned property  
7 shall be the responsibility of the lender, unless the lender  
8 and the museum have mutually agreed to alternate  
9 arrangements.

10 (b) Written claim by others.--If a museum receives a written  
11 claim of ownership for loaned property for which notice was  
12 provided under section 8(c)(2) or (3) from a person other than  
13 the lender or lender's agent on record with the museum, the  
14 museum shall determine if the ownership claim is valid, not  
15 later than 90 days after receipt of the written claim of  
16 ownership. The following apply:

17 (1) A claimant shall submit proof of ownership to the  
18 museum with the written claim of ownership.

19 (2) If more than one person submits a written claim of  
20 ownership, the museum may delay its determination of  
21 ownership until the competing claims are resolved by  
22 agreement or legal action.

23 (3) If the museum determines that the written claim of  
24 ownership is valid or if the competing claims are resolved by  
25 agreement or legal action, the museum shall return the loaned  
26 property to the claimant submitting the valid claim of  
27 ownership or dispose of the loaned property as the valid  
28 claimant requests.

29 (4) Any costs incurred as a result of returning the  
30 loaned property or the disposition of the loaned property

1 shall be the responsibility of the valid claimant, unless the  
2 valid claimant and the museum have mutually agreed to  
3 alternate arrangements.

4 Section 10. Title to unclaimed loaned property.

5 (a) Conditions.--As of the effective date of this section, a  
6 museum acquires title to unclaimed loaned property under any of  
7 the following circumstances:

8 (1) For loaned property for which a museum provides  
9 actual notice to a lender in accordance with section 8(c)(2)  
10 and a signed receipt is received, if a lender of that loaned  
11 property does not contact the museum within 90 days after the  
12 date notice was received.

13 (2) For loaned property for which notice by publication  
14 is made in accordance with section 8(c)(3), if a lender or  
15 any person claiming a legal interest in that loaned property  
16 does not contact the museum within 90 days after the date of  
17 the second publication of the notice.

18 (b) Effect of act.--Nothing in this act shall preclude a  
19 museum from availing itself of any other means of establishing  
20 or perfecting title to property in the possession of the museum.

21 Section 11. Contractual obligations.

22 Notwithstanding the other provisions of this act, a lender  
23 and museum may bind themselves to different loan provisions by  
24 written contract.

25 Section 12. Effect on other rights.

26 (a) Escheat.--Property on loan to a museum shall not escheat  
27 to the Commonwealth under Article XIII.1 of the act of April 9,  
28 1929 (P.L.343, No.176), known as The Fiscal Code, or any other  
29 law of this Commonwealth, but shall pass to the museum in  
30 accordance with section 10.

1 (b) Federal law.--This act shall not apply to property in  
2 the possession of a museum under the Native American Graves  
3 Protection and Repatriation Act (Public Law 101-601, 104 Stat.  
4 3048).

5 (c) Stolen property.--This act shall not apply to property  
6 that is reported as stolen to a law enforcement agency, insurer  
7 or the art loss register, or a successor organization having  
8 similar purposes, no later than three years following the theft  
9 or discovery of the theft, or was created before 1945 and  
10 changed hands due to theft, seizure, confiscation, forced sale  
11 or other involuntary means in Europe during the Nazi era between  
12 1933 and 1945.

13 (d) Other property interests.--Property interests other than  
14 those specifically addressed in this act are not altered by this  
15 act.

16 Section 13. Title to property acquired from museum.

17 A museum that acquires title to unclaimed loaned property  
18 under this act passes good title to another person when  
19 transferring that property with the intent to pass title.

20 Section 14. Expenses and conservation or protective measures.

21 (a) Lien authorized.--As of the effective date of this act,  
22 a museum shall have a lien for expenses for the reasonable care  
23 of unclaimed loaned property after the expiration date of the  
24 loan.

25 (b) Conditions required to apply conservation or protective  
26 measures.--Unless the written loan agreement for the property  
27 provides otherwise, a museum may apply conservation or  
28 protective measures to loaned property without the permission of  
29 the lender or formal notice to the lender if:

30 (1) Action is required to:

1 (i) protect the loaned property or other property in  
2 the possession of the museum; or

3 (ii) protect the health and safety of the public or  
4 museum staff because the loaned property is a hazard.

5 (2) Any of the following applies:

6 (i) The museum is unable to contact the lender at  
7 the address on record for the lender within five business  
8 days before the time in which the museum determines that  
9 action is necessary.

10 (ii) The lender does not:

11 (A) respond or agree to the conservation or  
12 protective measures recommended by the museum; and

13 (B) terminate the loan and take possession of  
14 the loaned property on or before the fifth business  
15 day after the museum contacts the lender.

16 (c) Amount of lien.--If a museum applies conservation or  
17 protective measures to loaned property under this act, or with  
18 the agreement of the lender, unless the written loan agreement  
19 for the loaned property provides otherwise, the museum shall  
20 acquire a lien on the loaned property in an amount equal to the  
21 costs incurred by the museum for the conservation or protective  
22 measures taken.

23 (d) Liability.--A museum shall not be liable for injury to  
24 or loss of loaned property for which conservation or protective  
25 measures were taken under this act, if all of the following  
26 apply:

27 (1) The museum had a reasonable belief at the time that  
28 the conservation or protective measures were taken that:

29 (i) the measures were necessary to protect the  
30 loaned property or other property in the possession of

1           the museum; or

2           (ii) the loaned property was a hazard to the health  
3           and safety of the public or museum staff.

4           (2) The museum exercised reasonable care in the choice  
5           and application of the conservation or protective measures.

6 Section 15. Effective date.

7           This act shall take effect in 60 days.