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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 157 Session of  
2017

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INTRODUCED BY METCALFE, GREINER, D. COSTA, NEILSON, MILLARD,  
GROVE, WARD, COX, B. MILLER AND GABLER, JANUARY 23, 2017

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, JANUARY 23, 2017

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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; and, in historic  
9 properties, further providing for powers over certain  
10 historic property.

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 \* \* \*

22 "Archival record." A record having sufficient historical

1 value to warrant permanent preservation by the Commonwealth or a  
2 unit of local government.

3 \* \* \*

4 "Public record" or "record." A record as defined in section  
5 102 of the act of February 14, 2008 (P.L.6, No.3), known as the  
6 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 a reasonable effort 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 as  
26 provided in paragraph (4).

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

28 § 305. Documents.

29 The commission shall have the power and duty to:

30 (1) Research on Commonwealth documents.--Examine and

1 copy or microfilm any public records within the control of a  
2 Commonwealth agency for the purposes of historical research.

3 (1.1) Administer the State Archives.--Oversee and  
4 administer the State Archives, which shall be the official  
5 State repository for the permanent and historically valuable  
6 public records of the Commonwealth that are transferred to  
7 the commission.

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

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

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

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

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

19 (6) Land records.--Maintain and preserve:

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

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

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

30 (iv) Maps and other papers pertaining to the

1 colonial history of this Commonwealth.

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

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

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

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

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

18 Section 5. Title 37 is amended by adding sections to read:

19 § 305.1. Commonwealth archival records.

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

23 (b) Sale or transfer of Commonwealth archival records  
24 prohibited.--

25 (1) A person may not sell, transfer or otherwise  
26 alienate a Commonwealth archival record unless specifically  
27 authorized by law or established by approved record retention  
28 procedures of the Commonwealth.

29 (2) In addition to any other penalty provided by law, a  
30 person who violates this subsection may be subject to a civil

1 penalty of not more than \$2,500.

2 (c) Commission authority.--The commission as part of its  
3 responsibilities for the operation of the State Archives may  
4 demand the return of any Commonwealth archival record in the  
5 possession of a person, organization, institution or other  
6 entity if removal of the record from Commonwealth possession was  
7 not authorized by the Commonwealth.

8 (d) Notice and demand of return.--

9 (1) When the executive director, in consultation with  
10 the State Archivist, has reasonable grounds to believe that a  
11 Commonwealth archival record is in the possession of a  
12 person, organization, institution or other entity not  
13 authorized by law to possess the record, the commission may  
14 issue written notice and demand to the person, organization,  
15 institution or other entity for the immediate return of the  
16 record. The notice and demand shall be sent by certified or  
17 registered mail, return receipt requested. The notice and  
18 demand shall identify the Commonwealth archival record  
19 claimed with reasonable specificity.

20 (2) Upon receipt of the notice and demand, the person,  
21 organization, institution or other entity in the possession  
22 of the Commonwealth archival record may not destroy, alter,  
23 transfer, convey or otherwise alienate the record unless  
24 authorized in writing by the executive director or by an  
25 order issued by a court of competent jurisdiction.

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

30 (f) Seizure of Commonwealth archival records.--At any time



1 after or contemporaneous with the filing of a petition under  
2 subsection (e), the commission may petition the court to order  
3 the seizure of the record if there are reasonable grounds to  
4 believe the record is in danger of being destroyed, mutilated,  
5 altered, secreted, sold or otherwise removed from the  
6 unauthorized possession of the person, organization, institution  
7 or other entity. The order of seizure shall be issued with  
8 notice to the respondent upon seizure and without the posting of  
9 any bond or other security by the petitioner.

10 (g) Presumption.--In any proceeding under subsection (e),  
11 there is a rebuttable presumption that Commonwealth archival  
12 records that were once in the custody of the Commonwealth were  
13 not lawfully alienated from that custody.

14 § 305.2. Local government archival records.

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

25 (b) Preservation of record status.--Upon receipt of the  
26 notice and demand from the commission or a local government  
27 agency issued under this section, the person, organization,  
28 institution or other entity in the possession of the local  
29 archival record claimed to belong to the local government agency  
30 may not destroy, alter, transfer, convey or otherwise alienate

1 the record unless authorized by the local government agency or  
2 by an order issued by a court of competent jurisdiction.

3 (c) Commission action.--If requested by a local government  
4 agency to act under subsection (a), the commission may demand  
5 return of a local archival record in the private possession of  
6 the person, organization, institution or other entity if removal  
7 of the record from government possession was not authorized by  
8 the local government agency.

9 § 305.3. Access to older public records.

10 (a) Access.--Any provision of law that exempts from public  
11 disclosure an item in the custody of the State Archives shall  
12 not apply after the item becomes at least 75 years old,  
13 irrespective of:

14 (1) The origin of the item.

15 (2) The manner in which it was deposited with the State  
16 Archives.

17 (3) Any other condition or circumstance at the time the  
18 item was deposited with the State Archives.

19 (b) Applicability.--Subsection (a) shall apply to any item  
20 currently in the custody of the State Archives and any item  
21 deposited in the State Archives after the effective date of this  
22 section.

23 (c) Notification to depositors.--The State Archives shall  
24 notify a party who deposits an item in the State Archives after  
25 the effective date of this section of the provisions of  
26 subsection (a).

27 (d) Public notice.--The commission's publicly accessible  
28 Internet website shall include a public notice stating that on  
29 or after January 1, 2016, all items that are at least 75 years  
30 old and on deposit in the State Archives shall be accessible to

1 the public.

2 (e) Construction.--If the provisions of this section  
3 conflict with any State law limiting disclosure of vital  
4 statistics or sealed records or with Federal law, the provisions  
5 of this section shall not apply.

6 Section 6. Section 702(7), (16), (26), (32), (37), (39),  
7 (41), (48), (50), (52) and (59) of Title 37 are amended to read:  
8 § 702. Powers over certain historic property.

9 In addition to all other powers vested in the commission by  
10 this title or other statute, the commission shall exercise all  
11 powers conferred on it by law with respect to the historic  
12 properties known as:

13 \* \* \*

14 [(7) Cashiers House.]

15 \* \* \*

16 [(16) Fort Augusta.]

17 \* \* \*

18 [(26) John Brown House.]

19 \* \* \*

20 [(32) McCoy House.]

21 \* \* \*

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

23 \* \* \*

24 [(39) Old Custom House.]

25 \* \* \*

26 [(41) Old Mill Village.]

27 \* \* \*

28 [(48) Pottsgrove Mansion.]

29 \* \* \*

30 [(50) Robert Fulton Birthplace.]

1 \* \* \*

2 [(52) Sodom School House.]

3 \* \* \*

4 [(59) Tuscarora Academy.]

5 \* \* \*

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