

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 157 Session of 2017

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

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, JANUARY 25, 2017

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 \* \* \*

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

8 \* \* \*

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

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

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

16 The commission shall have the power and duty to:

17 \* \* \*

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

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

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

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

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

30 (v) A summary of the progress in computerization of

1 collections and inventories.

2 \* \* \*

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

5 § 304. Personal property.

6 The commission shall have the power and duty to:

7 \* \* \*

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

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

10 \* \* \*

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

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

23 (ii) If no valid claim has been made to the property  
24 within 60 days after the date of the last notice provided  
25 by the commission, the commission shall have the  
26 authority to sell or otherwise dispose of the property as  
27 provided in paragraph (4).

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

29 § 305. Documents.

30 The commission shall have the power and duty to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 § 305.1. Commonwealth archival records.

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

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

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

30 (2) In addition to any other penalty provided by law, a

1 person who violates this subsection may be subject to a civil  
2 penalty of not more than \$2,500.

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

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

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

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

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



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

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

15 § 305.2. Local government archival records.

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

26 (b) Preservation of record status.--Upon receipt of the  
27 notice and demand from the commission or a local government  
28 agency issued under this section, the person, organization,  
29 institution or other entity in the possession of the local  
30 archival record claimed to belong to the local government agency

1 may not destroy, alter, transfer, convey or otherwise alienate  
2 the record unless authorized by the local government agency or  
3 by an order issued by a court of competent jurisdiction.

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

10 § 305.3. Access to older public records.

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

15 (1) The origin of the item.

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

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

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

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

28 (d) Public notice.--The commission's publicly accessible  
29 Internet website shall include a public notice stating that on  
30 or after January 1, ~~2016~~ 2017, all items that are at least 75 <--

1 years old and on deposit in the State Archives shall be  
2 accessible to the public.

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

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

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

14 \* \* \*

15 [(7) Cashiers House.]

16 \* \* \*

17 [(16) Fort Augusta.]

18 \* \* \*

19 [(26) John Brown House.]

20 \* \* \*

21 [(32) McCoy House.]

22 \* \* \*

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

24 \* \* \*

25 [(39) Old Custom House.]

26 \* \* \*

27 [(41) Old Mill Village.]

28 \* \* \*

29 [(48) Pottsgrove Mansion.]

30 \* \* \*

1 [(50) Robert Fulton Birthplace.]

2 \* \* \*

3 [(52) Sodom School House.]

4 \* \* \*

5 [(59) Tuscarora Academy.]

6 \* \* \*

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