

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 178 Session of 2017

INTRODUCED BY SCAVELLO, SCARNATI, SABATINA, VULAKOVICH, GREENLEAF, MENSCH, GORDNER, KILLION, FOLMER, RAFFERTY AND BREWSTER, JANUARY 25, 2017

SENATOR FOLMER, STATE GOVERNMENT, AS AMENDED, MARCH 21, 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, and 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." A record as defined in section 102 of the
6 act of February 14, 2008 (P.L.6, No.3), known as the Right-to-
7 Know Law.

8 * * *

9 "Record." A record as defined in section 102 of the Right-
10 to-Know Law.

11 * * *

12 "State Archives." The Pennsylvania State Archives
13 administered by the Pennsylvania Historical and Museum
14 Commission.

15 "State Archivist." The Director of the Pennsylvania State
16 Archives.

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

19 The commission shall have the power and duty to:

20 * * *

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

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

27 [(ii) A report on the operation of the Conservation
28 Center.]

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

1 (iv) A summary of collection deaccessioning
2 activities.

3 (v) A summary of the progress in computerization of
4 collections and inventories.

5 * * *

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

8 § 304. Personal property.

9 The commission shall have the power and duty to:

10 * * *

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

1 reacquire an object shall not be construed to diminish the
2 commission's control over an historical artifact subsequent
3 to its acquisition by the commission and prior to its
4 disposition.] These sales shall be conducted by the
5 Department of General Services. Income produced through these
6 sales shall be paid into the State Treasury through the
7 Department of Revenue and credited to the Historical
8 Preservation Fund and allocated solely for collection
9 acquisition or conservation purposes. No unique object,
10 article, manuscript, document or other material, which is of
11 special significance to the history of this Commonwealth,
12 shall be sold.

13 * * *

14 (6) Abandoned property on loan.--Sell or otherwise
15 dispose of property on loan to the commission in accordance
16 with the following:

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

26 (ii) If no valid claim has been made to the property
27 within 60 days after the date of the last notice provided
28 by the commission, the commission may authorize the
29 Department of General Services to sell or otherwise
30 dispose of the property.

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

2 § 305. Documents.

3 The commission shall have the power and duty to:

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

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

30 [(3)] (4) Management of historical documents.--Collect,

1 classify, preserve and make available for reference all
2 records which may come into its possession with the
3 exceptions indicated by the commission; and examine the
4 condition of the public records, books, pamphlets, documents,
5 manuscripts, archives, maps and papers filed or recorded in
6 any Commonwealth agency or political subdivision. The
7 executive director or any employees authorized by him shall
8 have reasonable access to all public records in this
9 Commonwealth for the purpose of examining them and shall
10 report to the commission on their condition.

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

20 [(5)] (6) Certificates relating to public records.--
21 Furnish certificates relating to public records, or copies
22 thereof, upon the payment of fees established by the
23 commission or otherwise fixed by law.

24 [(6)] (7) Land records.--Maintain and preserve:

25 (i) Records of the first titles acquired by the
26 proprietaries and the Commonwealth to all the lands
27 within its boundaries.

28 (ii) Records of all lands and conveyances from the
29 proprietaries and the Commonwealth to the purchasers of
30 the land.

1 (iii) Papers relating to the surveys of this
2 Commonwealth and county lines and the reports of
3 commissioners relating to the boundary lines of this
4 Commonwealth.

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

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

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

11 (8) Protection and recovery of Commonwealth records.--
12 Maintain and preserve Commonwealth records in accordance with
13 its powers and duties under section 305.1 (relating to
14 Commonwealth archival records).

15 (9) Protection and recovery of local government
16 records.--Maintain and preserve local government records in
17 accordance with its powers and duties under section 305.2
18 (relating to local government archival records).

19 (10) Access to older public records.--Ensure access to
20 older public records in accordance with its powers and duties
21 under section 305.3 (relating to access to older public
22 records).

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

24 § 305.1. Commonwealth archival records.

25 (a) Statement of policy.--It is the policy of the
26 Commonwealth that Commonwealth records belong to the citizens of
27 this Commonwealth.

28 (b) Sale or transfer of Commonwealth archival records
29 prohibited.--

30 (1) A person may not sell, transfer or otherwise

1 alienate a Commonwealth archival record unless specifically
2 authorized by law or established by approved record retention
3 procedures of the Commonwealth.

4 (2) In addition to any other penalty provided by law, a
5 person who violates this subsection may be subject to a civil
6 penalty of not more than \$2,500.

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

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

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

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

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

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

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

19 § 305.2. Local government archival records.

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

29 (b) Preservation of record status.--Upon receipt of the
30 notice and demand from the commission or a local government

1 agency issued under this section, the person, organization,
2 institution or other entity in the possession of the local
3 archival record claimed to belong to the local government agency
4 may not destroy, alter, transfer, convey or otherwise alienate
5 the record unless authorized by the local government agency or
6 by an order issued by a court of competent jurisdiction.

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

13 § 305.3. Access to older public records.

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

18 (1) The origin of the item.

19 (2) The manner in which it was deposited with the State
20 Archives.

21 (3) Any other condition or circumstance at the time the
22 item was deposited.

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

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

1 (d) Public notice.--The commission's publicly accessible
2 Internet website shall include a public notice stating that on
3 or after January 1, 2015 2018, all items that are at least 75 <--
4 years old and on deposit in the State Archives shall be
5 accessible to the public.

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

10 Section 6. Section 702(7), (16), (26), (32), (37), (39),
11 (41), (48), (50), (52) and (59) of Title 37 are amended to read:
12 § 702. Powers over certain historic property.

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

17 * * *

18 [(7) Cashiers House.]

19 * * *

20 [(16) Fort Augusta.]

21 * * *

22 [(26) John Brown House.]

23 * * *

24 [(32) McCoy House.]

25 * * *

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

27 * * *

28 [(39) Old Custom House.]

29 * * *

30 [(41) Old Mill Village.]

1 * * *

2 [(48) Pottsgrove Mansion.]

3 * * *

4 [(50) Robert Fulton Birthplace.]

5 * * *

6 [(52) Sodom School House.]

7 * * *

8 [(59) Tuscarora Academy.]

9 * * *

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