
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 284 Session of
2019

INTRODUCED BY METCALFE, RYAN, READSHAW, MILLARD, NEILSON, GROVE,
B. MILLER, COX, JAMES AND SAYLOR, JANUARY 30, 2019

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JANUARY 30, 2019

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 July 1, 2019, all items that are at least 75 years old
30 and on deposit in the State Archives shall be accessible to the

1 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.