
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 874 Session of
2019

INTRODUCED BY PHILLIPS-HILL AND BROWNE, OCTOBER 8, 2019

REFERRED TO STATE GOVERNMENT, OCTOBER 8, 2019

AN ACT

1 Amending Title 37 (Historical and Museums) of the Pennsylvania
2 Consolidated Statutes, providing for donated or abandoned
3 cultural property.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 37 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 11

9 DONATED OR ABANDONED CULTURAL PROPERTY

10 Subchapter

11 A. Preliminary Provisions

12 B. Loan of Property

13 C. Procedures

14 D. Miscellaneous Provisions

15 SUBCHAPTER A

16 PRELIMINARY PROVISIONS

17 Sec.

18 1101. Scope of chapter.

19 1102. Purposes of chapter.

1 1103. Definitions.

2 § 1101. Scope of chapter.

3 This chapter relates to donated or abandoned cultural
4 property.

5 § 1102. Purposes of chapter.

6 The purposes of this chapter are to:

7 (1) Establish procedures for vesting in a museum
8 ownership of abandoned, undocumented or unsolicited property
9 in the possession of the museum.

10 (2) Establish procedures to terminate loans of property
11 to a museum.

12 (3) Allow a museum to conserve or dispose of loaned,
13 undocumented or unsolicited property under certain
14 conditions.

15 § 1103. Definitions.

16 The following words and phrases when used in this chapter
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Lender." A person whose name appears on the records of a
20 museum as the person legally entitled to, or claiming to be
21 legally entitled to, property held by the museum or, if the
22 person is deceased, the legal heirs of the person.

23 "Loan." As follows:

24 (1) A deposit of property with a museum in which any of
25 the following occurs:

26 (i) Title to the deposit is not transferred to the
27 museum.

28 (ii) The loan agreement for the deposit does not
29 include a provision that the museum shall acquire title
30 at some time after the deposit is made.

1 (iii) The loan agreement for the deposit includes an
2 option for the museum to acquire title at some time after
3 the deposit is made.

4 (2) The term does not include a consignment of property
5 for sale or property donated to a museum.

6 "Museum." As follows:

7 (1) A nonprofit or public institution in this
8 Commonwealth that:

9 (i) is organized for educational, scientific,
10 historic or aesthetic purposes; and

11 (ii) collects, owns, borrows, cares for, studies,
12 archives or exhibits property as a stated purpose in its
13 charter.

14 (2) The term includes, but is not limited to, a
15 historical society, park, historic site, historic monument,
16 archive or library.

17 (3) The term does not include the State Museum or an
18 entity under the auspices of the commission.

19 "Property." A tangible object that:

20 (1) is in the possession of and under the care of a
21 museum; and

22 (2) has intrinsic educational, scientific, historical,
23 artistic, aesthetic or cultural value.

24 "Unsolicited donation." Property that is:

25 (1) left at a museum as property to be controlled by the
26 museum;

27 (2) from an unknown source; and

28 (3) reasonably assumed to have been intended as a gift
29 to the museum.

30 SUBCHAPTER B

1 LOAN OF PROPERTY

2 Sec.

3 1111. Loan of property subject to loan agreement.

4 1112. Loan of property with no loan agreement.

5 § 1111. Loan of property subject to loan agreement.

6 (a) Deemed donation.--Property on loan to a museum that is
7 subject to a loan agreement shall be deemed to be donated to the
8 museum if all of the following apply:

9 (1) No claim of ownership is made or action filed to
10 recover the property by the owner after termination or
11 expiration of the loan.

12 (2) The museum has given notice, in accordance with
13 section 1122 (relating to notice to lender), and no claim of
14 ownership is made or action to recover the property is filed
15 within 90 days after the publication of the second notice
16 under section 1122.

17 (b) Termination of loan made for indefinite term.--A museum
18 may terminate a loan of property to the museum, which was made
19 for an indefinite term, if the property has been in the
20 possession of the museum for at least five years. The following
21 apply:

22 (1) Property on loan to the museum and whose loan
23 agreement indicates that the property is on permanent loan to
24 the museum shall be considered loaned for an indefinite term
25 for purposes of this subsection.

26 (2) The loan of property that has been terminated under
27 this subsection shall be deemed donated to the museum.

28 (c) Termination of loan made for specified term.--A museum
29 may terminate a loan of property to the museum, which was made
30 for a specified term, after the expiration of the specified

1 term, if the museum provides notice of the termination in
2 accordance with section 1122. The property for a loan of
3 property that has been terminated under this subsection shall be
4 deemed donated to the museum.

5 (d) Notice by owner of loaned property.--The owner of
6 property loaned to a museum shall provide the museum with
7 written notice of the following:

8 (1) Any change of the address of the owner.

9 (2) Any designated agent of the owner.

10 (3) The address of any designated agent.

11 (4) The name and address of any new owner of the
12 property if there is a change in the ownership of the
13 property loaned to the museum.

14 (e) Notice by museum.--A museum accepting a loan of property
15 shall provide the owner of the property a written copy of the
16 provisions of this chapter.

17 § 1112. Loan of property with no loan agreement.

18 (a) Deemed abandonment.--Property in the possession of a
19 museum that is not subject to a loan agreement shall be deemed
20 to be abandoned if all of the following apply:

21 (1) The property is unclaimed and has been in the
22 possession of the museum as unclaimed property for at least
23 five years.

24 (2) The museum has given notice, in accordance with the
25 provisions of section 1122 (relating to notice to lender),
26 and no claim of ownership is made or action to recover the
27 property is filed within 60 days after the publication of the
28 second notice under section 1122.

29 (b) Effect of abandonment.--Property that is deemed
30 abandoned under this section and in the possession of a museum

1 shall become the property of the museum.

2 (c) Applicability.--This section shall not apply to property
3 that:

4 (1) is reported as stolen to a law enforcement agency,
5 insurer or the art loss register, or a successor organization
6 having similar purposes, no later than three years following
7 the theft or discovery of the theft; or

8 (2) was created before 1945 and changed hands due to
9 theft, seizure, confiscation, forced sale or other
10 involuntary means in Europe during the Nazi era between 1933
11 and 1945.

12 SUBCHAPTER C

13 PROCEDURES

14 Sec.

15 1121. Records.

16 1122. Notice to lender.

17 1123. Return or disposition of property.

18 1124. Conservation or protective measures.

19 1125. Unsolicited donations.

20 § 1121. Records.

21 (a) Maintenance of records.--Each museum shall maintain a
22 record of all property on loan to the museum, including the
23 following, if known:

24 (1) The name and address of the lender.

25 (2) The dates that the property is to be on loan to the
26 museum.

27 (3) A copy of the loan agreement for the property.

28 (b) Copy of records.--Each museum shall provide a copy of
29 the applicable record and the loan agreement to the lender of
30 property at the time that the lender makes the loan of property

1 to the museum.

2 (c) Update of records.--If a museum is notified of a change
3 in ownership of property on loan to the museum, the museum
4 shall:

5 (1) Create a new record for the property.

6 (2) Update the existing loan agreement.

7 (3) Provide a written copy of the new record and updated
8 loan agreement to the new owner of the property.

9 (d) Museum ownership.--If a museum becomes the owner of
10 property on loan to the museum, the museum shall maintain a
11 record of the ownership.

12 § 1122. Notice to lender.

13 (a) Search and notice to known lender.--Prior to a museum
14 accepting donated property under section 1111 (relating to loan
15 of property subject to loan agreement) or taking ownership of
16 abandoned property under section 1112 (relating to loan of
17 property with no loan agreement), the museum shall make a
18 reasonable good faith effort to find the address of the lender
19 and provide notice that the museum may become the owner of the
20 property. The notice shall be sent by certified mail, return
21 receipt requested, to the address of the lender on record with
22 the museum.

23 (b) Notice procedures for unfound lender.--If a museum does
24 not have an address on record for the lender of the property, or
25 the museum does not receive written proof of receipt of the
26 mailed notice within 30 days after the date the notice was
27 mailed under subsection (a), the museum shall publish a notice,
28 at least once each week for two consecutive weeks, in a media of
29 wide utilization in the municipality in which the museum is
30 located and the municipality of the lender on record with the

1 museum, if available. The published notice shall contain all of
2 the following:

3 (1) A brief and general description of the unclaimed
4 property.

5 (2) The name and address of the lender on record with
6 the museum.

7 (3) A request that all persons who may have any
8 knowledge of the whereabouts of the lender provide written
9 notice to the museum.

10 (4) A statement that if no claim of ownership is made or
11 action to recover the property is filed on or before 60 days
12 after publication of the second notice, the property shall be
13 deemed donated or abandoned and shall become the property of
14 the museum.

15 (c) Location of museum defined.--For purposes of this
16 section:

17 (1) If the loan of property was made to a branch of a
18 museum, the museum shall be deemed to be located in the
19 municipality in which the branch is located.

20 (2) If paragraph (1) does not apply, the museum shall be
21 deemed to be located in the municipality in which the museum
22 has its principal place of business.

23 § 1123. Return or disposition of property.

24 (a) Notice from lender.--If a museum receives a written
25 claim of ownership for property for which notice of donation or
26 abandonment was made under section 1122 (relating to notice to
27 lender) from the lender, or the designated agent of the lender,
28 the museum shall return the property to the lender or carry out
29 the disposition of the property as the lender requests, not
30 later than 60 days after receipt of the written claim of

1 ownership. The following apply:

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

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

9 (b) Notice from person other than lender.--If a museum
10 receives a written claim of ownership for property for which
11 notice of donation or abandonment was made under section 1122
12 from a person other than the lender on record with the museum,
13 the museum shall determine if the ownership claim is valid, not
14 later than 60 days after receipt of the written claim of
15 ownership. The following apply:

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

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

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

28 (4) Any costs incurred as a result of returning the
29 property or the disposition of the property shall be the
30 responsibility of the valid claimant unless the valid

1 claimant and the museum have mutually agreed to alternate
2 arrangements.

3 (c) Claim of ownership and title to property.--

4 (1) If no written claim of ownership is presented to the
5 museum within 60 days after the publication of the second
6 notice under section 1122, the property shall be deemed
7 donated or abandoned and title to the property shall vest in
8 the museum.

9 (2) If a valid claim of ownership for the property is
10 made after title to the property has vested in the museum
11 under this subsection and the museum holds title to the
12 property, the museum shall return the property to the owner
13 of the property and the title of the property shall revert to
14 the owner.

15 (d) Title to property generally.--A person who purchases or
16 otherwise acquires property from a museum that obtained the
17 property by donation or abandonment under this section or
18 section 1111 (relating to loan of property subject to loan
19 agreement) or 1112 (relating to loan of property with no loan
20 agreement) shall acquire good title to the property.

21 § 1124. Conservation or protective measures.

22 (a) Conditions required to apply measures.--A museum may
23 apply conservation or protective measures to property on loan to
24 the museum without the permission of the lender or formal notice
25 to the lender, unless the written loan agreement for the
26 property provides otherwise, if:

27 (1) Action is required to:

28 (i) protect the property or other property in the
29 possession of the museum; or

30 (ii) protect the health and safety of the public or

1 museum staff because the property is a hazard.

2 (2) Any of the following applies:

3 (i) The museum is unable to contact the lender at
4 the address on record for the lender within three days
5 before the time in which the museum determines that
6 action is necessary.

7 (ii) The lender does not:

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

10 (B) terminate the loan and take possession of
11 the property on or before the third day that the
12 museum contacts the lender.

13 (b) Lien on property.--If a museum applies conservation or
14 protective measures to property on loan to the museum under this
15 section, or with the agreement of the lender, unless the written
16 loan agreement for the property provides otherwise, the museum
17 shall acquire a lien on the property in an amount equal to the
18 costs incurred by the museum for the conservation or protective
19 measures taken.

20 (c) Liability.--A museum shall not be liable for injury to
21 or loss of property that was on loan to the museum and for which
22 conservation or protective measures were taken under this
23 section, if all of the following apply:

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

26 (i) the measures were necessary to protect the
27 property or other property in the possession of the
28 museum; or

29 (ii) the property was a hazard to the health and
30 safety of the public or museum staff.

1 (2) The museum exercised reasonable care in the choice
2 and application of the conservation and protective measures.
3 § 1125. Unsolicited donations.

4 (a) Acquisition of title generally.--A museum may acquire
5 title to unsolicited donations found on or delivered to museum
6 property as provided in this section.

7 (b) Presumption.--Unsolicited donations are conclusively
8 presumed to be a gift to the museum if ownership is not claimed
9 by a person within 90 days after discovery and notice is given
10 by the museum under this section.

11 (c) Undocumented property.--Undocumented property found in a
12 collection of a museum is not an unsolicited donation.

13 (d) Notice.--

14 (1) A museum must give notice that the museum is
15 asserting title to an unsolicited donation.

16 (2) Notice that the museum is asserting title to the
17 unsolicited property must include a statement containing
18 substantially the following information:

19 "The following property was found at (name of museum)
20 and is presumed to be a donation to the museum.

21 The museum hereby asserts title to the following
22 property: (general description of property). Anyone
23 claiming ownership or other legal interest in this
24 property must contact the museum, establish ownership
25 of the property and make arrangements to collect the
26 property. If you fail to do so within 60 days of
27 notice required under 37 Pa.C.S. Ch. 11, you will
28 have waived any claim to this unsolicited property."

29 (3) Notice by publication shall be made in accordance
30 with section 1122 (relating to notice to lender) and shall be

1 given at least once each week for two consecutive weeks in a
2 media of wide utilization in the county in which the museum
3 is located.

4 SUBCHAPTER D

5 MISCELLANEOUS PROVISIONS

6 Sec.

7 1131. Applicability.

8 1132. Rights and obligations.

9 1133. Other means of establishing or perfecting title.

10 § 1131. Applicability.

11 The provisions of this chapter shall not apply to property in
12 the possession of a museum under the Native American Graves
13 Protection and Repatriation Act (Public Law 101-601, 104 Stat.
14 3048).

15 § 1132. Rights and obligations.

16 Nothing in this chapter shall be construed to abrogate the
17 rights and obligations of a lender, claimant or museum
18 identified in a written loan agreement.

19 § 1133. Other means of establishing or perfecting title.

20 Nothing in this chapter shall preclude a museum from availing
21 itself of any other means of establishing or perfecting title to
22 property in the possession of the museum.

23 Section 2. This act shall take effect in 60 days.