
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

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INTRODUCED BY PHILLIPS-HILL, FONTANA AND STEFANO,
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AN ACT

1 Providing for museum unclaimed loaned property.

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1 The General Assembly of the Commonwealth of Pennsylvania
2 hereby enacts as follows:

3 Section 1. Short title.

4 This act shall be known and may be cited as the Museum
5 Unclaimed Loaned Property Act.

6 Section 2. Legislative findings.

7 The General Assembly finds and declares the following:

8 (1) The residents of this Commonwealth have an interest
9 in the growth and maintenance of museum collections and in
10 the preservation and protection of unclaimed loaned property
11 of artistic, historic, cultural or scientific value left in
12 the custody of museums within this Commonwealth.

13 (2) Loans of property of artistic, historic, cultural or
14 scientific value are made to museums to further educational
15 purposes.

16 (3) When lenders of property for museums fail to stay in
17 contact, museums must routinely store and care for the loaned
18 property long after the loan periods have expired or should
19 reasonably be deemed expired.

20 (4) Nevertheless, museums have limited rights to the use
21 and treatment of unclaimed loaned property, all the while
22 bearing substantial costs related to the storage,
23 recordkeeping, climate control, security, periodic
24 inspection, insurance, general overhead and conservation
25 associated with the unclaimed loaned property.

26 (5) It is in the public's interest to:

27 (i) Encourage museums and the lenders of property
28 for museums to use due diligence in monitoring the loaned
29 property.

30 (ii) Allocate fair responsibilities between museums

1 and the lenders of property for museums.

2 (iii) Resolve expeditiously the issue of title of
3 unclaimed loaned property left in the custody of museums.

4 Section 3. Purpose of act.

5 The purpose of this act is to establish uniform rules to
6 govern the disposition of museum unclaimed loaned property.

7 Section 4. Definitions.

8 The following words and phrases when used in this act shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Claimant." An individual, corporation, partnership, trust,
12 estate or similar organization that files notice of intent to
13 preserve an interest in loaned property in the custody of a
14 museum as provided in section 9(b).

15 "Lender." An individual, corporation, partnership, trust,
16 estate or similar organization whose name appears on the records
17 of a museum as the person legally entitled to control loaned
18 property in the custody of the museum. The term includes a
19 successor of an original lender.

20 "Loan." A transaction between a lender and a museum
21 regarding property of the lender in which the museum maintains
22 custody of the property.

23 "Loaned property." Property that is in the possession of a
24 museum, accompanied by evidence that the lender of the property
25 intended to retain title to the property and return to take
26 physical possession of the property in the future.

27 "Museum." As follows:

28 (1) A public or private nonprofit agency or institution
29 that is:

30 (i) located in this Commonwealth;

1 (ii) organized on a permanent basis for educational
2 or aesthetic purposes; and
3 (iii) owns or utilizes tangible objects, cares for
4 tangible objects and exhibits tangible objects to the
5 public on a regular basis.

6 (2) The term includes a historical society, park,
7 historic site, historic monument, archive or library.

8 "Museum records." Documents that are created or held by a
9 museum in the regular course of business of the museum.

10 "Property." A tangible or digital object that is in the
11 custody of a museum and that has intrinsic historical, artistic,
12 scientific or cultural value.

13 "Restricted certified mail." Certified mail that carries on
14 its face, in a conspicuous place where it will not be
15 obliterated, the endorsement "deliver to addressee only" and for
16 which the post office provides the mailer with a return receipt
17 showing the date of delivery, the place of delivery and the
18 person to whom delivered.

19 "Unclaimed loaned property." Property:

20 (1) that is on loan to a museum; and

21 (2) whose original lender, or any person acting
22 legitimately on behalf of the lender, has not contacted the
23 museum for at least 20 years from the beginning date of the
24 loan of the property, if the loan of the property was for an
25 indefinite or undetermined period or for at least five years
26 after the date upon which the loan of the property for the
27 definite period expired.

28 Section 5. Museum obligations to lenders.

29 (a) Recordkeeping for new loaned property.--For property
30 loaned to a museum on or after the effective date of this

1 subsection, the museum shall do all of the following at the time
2 of the loan:

3 (1) Make and retain a written record containing at least
4 all of the following:

5 (i) The name, address and telephone number of the
6 lender.

7 (ii) A description of the loaned property in
8 sufficient detail for ready identification.

9 (iii) The beginning date of the loan.

10 (iv) The expiration date of the loan.

11 (2) Provide the lender with a signed receipt or loan
12 agreement containing at least the record specified in
13 paragraph (1).

14 (3) Inform the lender of the existence of this act and
15 provide the lender with a copy of this act upon request of
16 the lender.

17 (b) Recordkeeping for existing loaned property.--Regardless
18 of the date of the loan of property to a museum, the museum
19 shall do all of the following:

20 (1) Update the records of the museum if:

21 (i) a lender informs the museum of a change of
22 address or change in ownership of the loaned property; or

23 (ii) the lender and museum negotiate a change in the
24 duration of the loan.

25 (2) Inform the lender of the existence of this act when
26 renewing or updating the records of an existing loan and
27 provide the lender with a copy of this act upon request of
28 the lender.

29 Section 6. Lender obligations to museums.

30 (a) Required notices.--Regardless of the date of the loan of

1 property in the custody of a museum, a lender shall promptly
2 notify the museum in writing of the following:

3 (1) A change of the address or telephone number of the
4 lender.

5 (2) The name, address and telephone number of the
6 successor of the lender.

7 (3) The name, address and telephone number of the
8 designated agent of the owner of the loaned property.

9 (4) A change of the address or telephone number of the
10 designated agent of the owner of the loaned property.

11 (5) A change in ownership of the loaned property and the
12 name, address and telephone number of the new owner of the
13 loaned property.

14 (b) Documentation establishing ownership.--A successor of a
15 lender shall document passage of rights of control to the loaned
16 property in the custody of the museum.

17 Section 7. Liability.

18 (a) Prejudice.--Unless there is evidence of bad faith or
19 gross negligence, a museum shall not be prejudiced by reason of
20 any failure to deal with the true owner of loaned property.

21 (b) Surrender of loaned property.--In a case of disputed
22 ownership of loaned property, a museum shall not be held liable
23 for its refusal to surrender loaned property in its possession
24 except in reliance upon a court order or judgment.

25 Section 8. Termination of loans for unclaimed loaned property.

26 (a) Authorization.--A museum may terminate a loan for
27 unclaimed loaned property in the museum's possession in
28 accordance with this section.

29 (b) Search.--A museum shall make a good faith and reasonable
30 search for the identity and last known address of the lender

1 from the museum records and other records reasonably available
2 to the museum staff.

3 (c) Notice.--

4 (1) Following a search under subsection (b):

5 (i) If the museum identifies the lender and the
6 lender's last known address, the museum shall give actual
7 notice to the lender that the loan is terminated in
8 accordance with paragraph (2).

9 (ii) If the identity or the last known address of
10 the lender remains unknown, the museum shall give notice
11 by publication in accordance with paragraph (3).

12 (2) Actual notice of termination by a museum of a loan
13 for unclaimed loaned property shall be provided by a letter
14 to the lender, which shall be sent by restricted certified
15 mail to the last known address of the lender and which shall
16 include the following information:

17 (i) The date of notice of termination.

18 (ii) The name of the lender.

19 (iii) A description of the loaned property in
20 sufficient detail for ready identification.

21 (iv) The approximate initiating date of the loan and
22 termination date, if applicable and known.

23 (v) The name and address of the designated museum
24 official to be contacted regarding the loan.

25 (vi) A statement that within 90 days of the date of
26 the notice of termination, the lender is required to
27 remove the loaned property from the museum or contact the
28 designated museum official to preserve the lender's
29 interests in the loaned property and that failure to do
30 so will result in the loss of all rights in the loaned

1 property in accordance with section 10.

2 (3) Notice by publication of termination by a museum of
3 a loan for unclaimed loaned property shall be provided as
4 follows:

5 (i) This paragraph only applies if:

6 (A) a search under subsection (b) is
7 unsuccessful and the museum is unable to send actual
8 notice in accordance with paragraph (2); or

9 (B) a signed return receipt of a notice sent by
10 restricted certified mail under paragraph (2) is not
11 received by the museum within 30 days after the
12 notice was mailed.

13 (ii) The museum shall publish the notice of
14 termination, which includes all the information that is
15 specified under paragraph (2) and available to the
16 museum, in a publication of general circulation in the
17 county of the last known address of the lender, if known,
18 and the county in which the museum is located. The
19 following apply:

20 (A) The notice shall be published at least twice
21 and at least 60 days apart.

22 (B) If the loan of property was made to a branch
23 of the museum, the museum shall be deemed to be
24 located in the county in which the branch is located.

25 Section 9. Return or disposition of unclaimed loaned property.

26 (a) Written claim by lender.--If a museum receives a written
27 claim of ownership for loaned property for which notice was
28 provided under section 8(c)(2) or (3), the museum shall return
29 the loaned property to the lender or carry out the disposition
30 of the loaned property as the lender requests, not later than 90

1 days after receipt of the written claim of ownership. The
2 following apply:

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

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

11 (b) Written claim by others.--If a museum receives a written
12 claim of ownership for loaned property for which notice was
13 provided under section 8(c)(2) or (3) from a person other than
14 the lender or lender's agent on record with the museum, the
15 museum shall determine if the ownership claim is valid not later
16 than 90 days after receipt of the written claim of ownership.
17 The following apply:

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

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

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

30 (4) Any costs incurred as a result of returning the

1 loaned property or the disposition of the loaned property
2 shall be the responsibility of the valid claimant, unless the
3 valid claimant and the museum have mutually agreed to
4 alternate arrangements.

5 Section 10. Title to unclaimed loaned property.

6 (a) Conditions.--As of the effective date of this
7 subsection, a museum acquires title to unclaimed loaned property
8 under any of the following circumstances:

9 (1) For loaned property for which a museum provides
10 actual notice to a lender in accordance with section 8(c)(2)
11 and a signed receipt is received, if a lender of that loaned
12 property does not contact the museum within 90 days after the
13 date notice was received.

14 (2) For loaned property for which notice by publication
15 is made in accordance with section 8(c)(3), if a lender or
16 any person claiming a legal interest in that loaned property
17 does not contact the museum within 90 days after the date of
18 the second publication of the notice.

19 (b) Effect of act.--Nothing in this act shall preclude a
20 museum from availing itself of any other means of establishing
21 or perfecting title to property in the possession of the museum.

22 Section 11. Contractual obligations.

23 Notwithstanding the other provisions of this act, a lender
24 and museum may bind themselves to different loan provisions by
25 written contract.

26 Section 12. Effect on other rights.

27 (a) Escheat.--Property on loan to a museum shall not escheat
28 to the Commonwealth under Article XIII.1 of the act of April 9,
29 1929 (P.L.343, No.176), known as The Fiscal Code, or any other
30 law of this Commonwealth, but shall pass to the museum in

1 accordance with section 10.

2 (b) Federal law.--This act shall not apply to property in
3 the possession of a museum under Native American Graves
4 Protection and Repatriation Act (Public Law 101-601, 104 Stat.
5 3048).

6 (c) Stolen property.--This act shall not apply to property
7 that is reported as stolen to a law enforcement agency, insurer
8 or the art loss register, or a successor organization having
9 similar purposes, no later than three years following the theft
10 or discovery of the theft, or was created before 1945 and
11 changed hands due to theft, seizure, confiscation, forced sale
12 or other involuntary means in Europe during the Nazi era between
13 1933 and 1945.

14 (d) Other property interests.--Property interests other than
15 those specifically addressed in this act are not altered by this
16 act.

17 Section 13. Title to property acquired from museum.

18 A museum that acquires title to unclaimed loaned property
19 under this act passes good title to another person when
20 transferring that property with the intent to pass title.

21 Section 14. Expenses and conservation or protective measures.

22 (a) Lien authorized.--As of the effective date of this
23 subsection, a museum shall have a lien for expenses for the
24 reasonable care of unclaimed loaned property after the
25 expiration date of the loan.

26 (b) Conditions required to apply conservation or protective
27 measures.--Unless the written loan agreement for the property
28 provides otherwise, a museum may apply conservation or
29 protective measures to loaned property without the permission of
30 the lender or formal notice to the lender if:

1 (1) Action is required to:

2 (i) protect the loaned property or other property in
3 the possession of the museum; or

4 (ii) protect the health and safety of the public or
5 museum staff because the loaned property is a hazard.

6 (2) Any of the following applies:

7 (i) The museum is unable to contact the lender at
8 the address on record for the lender within five business
9 days before the time in which the museum determines that
10 action is necessary.

11 (ii) The lender does not:

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

14 (B) terminate the loan and take possession of
15 the loaned property on or before the fifth business
16 day after the museum contacts the lender.

17 (c) Amount of lien.--If a museum applies conservation or
18 protective measures to loaned property under this act, or with
19 the agreement of the lender, unless the written loan agreement
20 for the loaned property provides otherwise, the museum shall
21 acquire a lien on the loaned property in an amount equal to the
22 costs incurred by the museum for the conservation or protective
23 measures taken.

24 (d) Liability.--A museum shall not be liable for injury to
25 or loss of loaned property for which conservation or protective
26 measures were taken under this act, if all of the following
27 apply:

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

30 (i) the measures were necessary to protect the

1 loaned property or other property in the possession of
2 the museum; or

3 (ii) the loaned property was a hazard to the health
4 and safety of the public or museum staff.

5 (2) The museum exercised reasonable care in the choice
6 and application of the conservation or protective measures.

7 Section 15. Effective date.

8 This act shall take effect in 60 days.