

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 372 Session of 2019

INTRODUCED BY SCAVELLO, SCARNATI, FOLMER, BREWSTER, KILLION, WHITE AND J. WARD, MARCH 1, 2019

SENATOR FOLMER, STATE GOVERNMENT, AS AMENDED, MARCH 19, 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 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 title to historic property
10 and for powers over certain 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." A record as defined in section 102 of the
5 act of February 14, 2008 (P.L.6, No.3), known as the Right-to-
6 Know Law.

7 * * *

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

10 * * *

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

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

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

18 The commission shall have the power and duty to:

19 * * *

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

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

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

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

30 (iv) A summary of collection deaccessioning

1 activities.

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

4 * * *

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

7 § 304. Personal property.

8 The commission shall have the power and duty to:

9 * * *

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

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

12 * * *

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

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

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

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

1 § 305. Documents.

2 The commission shall have the power and duty to:

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

12 [(2)] (3) Preservation of public records.--Preserve all
13 public records throughout this Commonwealth and give special
14 attention to the preservation of all records of the
15 Commonwealth not in current use and of historical value;
16 negotiate for the transfer and receipt of public records from
17 any Commonwealth agency or political subdivision; and provide
18 for the disposition of records not needed or useful in the
19 transaction of current or anticipated future work of the
20 Commonwealth under section 524 of the act of April 9, 1929
21 (P.L.177, No.175), known as The Administrative Code of 1929.
22 The commission shall be the legal custodian of any public
23 records transferred to it by any Commonwealth agency or
24 political subdivision. The head of any Commonwealth agency or
25 political subdivision may transfer to the commission public
26 records legally in his custody not needed for the transaction
27 of the business of the office whenever the commission is
28 willing to receive and care for them.

29 [(3)] (4) Management of historical documents.--Collect,
30 classify, preserve and make available for reference all

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

10 [(4)] (5) Regulation of Commonwealth records.--Recommend
11 such action be taken by the persons having the care and
12 custody of public records as may be necessary to secure their
13 safety and preservation; cause all laws relating to public
14 records to be enforced; and recommend and enforce uniform
15 standards governing the use of paper, ink and filing
16 procedure for all records and papers of Commonwealth agencies
17 and political subdivisions that are considered of permanent
18 historical importance.

19 [(5)] (6) Certificates relating to public records.--
20 Furnish certificates relating to public records, or copies
21 thereof, upon the payment of fees established by the
22 commission or otherwise fixed by law.

23 [(6)] (7) Land records.--Maintain and preserve:

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

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

30 (iii) Papers relating to the surveys of this

1 Commonwealth and county lines and the reports of
2 commissioners relating to the boundary lines of this
3 Commonwealth.

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

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

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

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

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

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

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

23 § 305.1. Commonwealth archival records.

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

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

29 (1) A person may not sell, transfer or otherwise
30 alienate a Commonwealth archival record unless specifically

1 authorized by law or established by approved record retention
2 procedures of the Commonwealth.

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

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

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

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

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

30 (e) Petition.--If the person, organization, institution or

1 other entity in possession of the Commonwealth archival record
2 refuses or fails to deliver the record on demand, the commission
3 may petition Commonwealth Court for recovery of the record.

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

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

18 § 305.2. Local government archival records.

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

28 (b) Preservation of record status.--Upon receipt of the
29 notice and demand from the commission or a local government
30 agency issued under this section, the person, organization,

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

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

12 § 305.3. Access to older public records.

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

17 (1) The origin of the item.

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

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

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

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

30 (d) Public notice.--The commission's publicly accessible

1 Internet website shall include a public notice stating that on
2 or after January 1, 2020, all items that are at least 75 years
3 old and on deposit in the State Archives shall be accessible to
4 the public.

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

9 Section 6. Sections 701(b)(1) introductory paragraph and
10 702(7), (12), (16), (17), (21), (26), (29), (32), (36), (37),
11 (39), (41), (48), (50), (52), (59) and ~~(62)~~ (61) of Title 37 are <--
12 amended to read:

13 § 701. Title to historic property.

14 * * *

15 (b) Leases.--

16 (1) For purposes of historic preservation, or for
17 educational, recreational, residential or agricultural
18 purposes, or for parking areas or concessions for the
19 convenience and comfort of the public, the commission may
20 lease historic property for a period not to exceed [five] 25
21 years to any person or organization of the Commonwealth. The
22 commission shall lease the property in the following manner:

23 * * *

24 § 702. Powers over certain historic property.

25 In addition to all other powers vested in the commission by
26 this title or other statute, the commission shall exercise all
27 powers conferred on it by law with respect to the historic
28 properties known as:

29 * * *

30 [(7) Cashiers House.]

1 * * *
2 [(12) David Bradford House.]
3 * * *
4 [(16) Fort Augusta.]
5 [(17) Fort Le Boeuf Museum.]
6 * * *
7 [(21) Governor Printz Park.]
8 * * *
9 [(26) John Brown House.]
10 * * *
11 [(29) Judson House.]
12 * * *
13 [(32) McCoy House.]
14 * * *
15 [(36) Nathan Denison House.]
16 [(37) Old Brown's Mill School.]
17 * * *
18 [(39) Old Custom House.]
19 * * *
20 [(41) Old Mill Village.]
21 * * *
22 [(48) Pottsgrove Mansion.]
23 * * *
24 [(50) Robert Fulton Birthplace.]
25 * * *
26 [(52) Sodom School House.]
27 * * *
28 [(59) Tuscarora Academy.]
29 * * *
30 [~~(62) Washington Crossing.~~]

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1 [(61) WARRIOR RUN CHURCH AND CEMETERY.]

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2 * * *

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